

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

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COMMONWEALTH OF MASSACHUSETTS,

v.

KAREN READ.

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* Docket No. 2282CR00117

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BEFORE THE HONORABLE BEVERLY CANNONE
WEDNESDAY, JUNE 12, 2024
CONTINUED TESTIMONY OF MICHAEL PROCTOR

APPEARANCES:

For the Commonwealth:

BY: ADAM LALLY, A.D.A.
LAURA MCLAUGHLIN, A.D.A.

For the defendant:

BY: DAVID YANETTI, ESQ.
ALAN JACKSON, ESQ.
ELIZABETH LITTLE, ESQ.

Dedham, Massachusetts
Room 25

Christine D. Blankenship, CVR
Court Reporter/Transcriber

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Michael Proctor				
(By Mr. Lally)			181	
(By Mr. Jackson)		3		223

Exhibits

For identification: Page:

ZZ	Text Message Packet	9
AAA	Text Message Packet	9
BBB	Text Message Packet	9
CCC	Text Message Packet	9
DDD	Text Message Packet	9
EEE	Text Message Packet	9
FFF	Text Message Packet	9
GGG	Text Message Packet	9
HHH	Text Message Packet	9

In evidence:

568	Photograph	141
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1 (Court in session.)

2 (Defendant is present with counsel.)

3 (Jury in.)

4 THE CLERK: Twenty-two one-one-seven, the
5 Commonwealth versus Karen Read.

6 THE COURT: All right. Good morning, Counsel.
7 Good morning, Ms. Read. Good morning, jurors.

8 So a few things this morning. First of all let me
9 ask you those three questions, please. Were you all
10 able to follow the instructions and refrain from
11 discussing this case with anyone since you left?

12 Everyone said yes and nodded affirmatively.

13 Were you also able to follow the instructions and
14 refrain from doing any independent research or
15 investigation into this case?

16 Everyone said yes and nodded affirmatively.

17 Did anyone happen to see, hear, or read anything
18 about this case since we left here the other day?

19 Everyone said no or shook their heads.

20 So by now you know, one of the jurors is no longer
21 able to participate in this case, and you may know why,
22 but it's my job to tell you that it's personal to
23 juror. It has nothing to do with whatsoever with this
24 case, and you're not to consider that, anyways.

25 And there's an instruction I need to give you.

1 You'll remember that when digital evidence or text
2 messages were introduced earlier, I gave you an
3 instruction. I'm required to give you this instruction
4 again.

5 Before you consider any electronic communication
6 in your deliberations, you must first find that it's
7 more likely to than not that the person who authored or
8 sent or transmitted the message was in fact the person
9 identified as doing so. If you do not find that it's
10 more likely to than not that the witness or the other
11 people in the text message thread was the person who
12 authored or created or transmitted the communication,
13 then you may not consider that communication in
14 deciding the case.

15 So it's an instruction I'm required to give you.
16 I should have given it to you. All right.

17 With that, we'll bring the witness in, please.

18 Good morning, Trooper.

19 MICHAEL PROCTOR, sworn

20 THE WITNESS: Good morning, Your Honor.

21 THE COURT: Good morning, Trooper.

22 THE WITNESS: Good morning, jurors.

23 THE COURT: All right. Whenever you're ready, Mr.
24 Jackson.

25 MR. BRENNAN: Your Honor, as a matter of

1 housekeeping, I would move to admit the packet of text
2 messages with Bates stamps inclusive of 02680 to 02685,
3 which was referred to on Monday.

4 THE COURT: Is there an objection to the written
5 one coming in?

6 MR. LALLY: Same objection, Your Honor.

7 THE COURT: Why don't I see you at sidebar on
8 this.

9 (Sidebar commences:

10 THE COURT: So I appreciate -- marked for
11 identification, please.

12 I appreciate you giving me copies. I copied them
13 yesterday, too.

14 THE COURT REPORT: ZZ for identification, Your
15 Honor.

16 THE COURT: Thank you. What's the objection, Mr.
17 Lally?

18 MR. LALLY: Your Honor, it's the same objection I
19 believe we dealt with the last week as far as
20 (indiscernible), as far as completeness, as far as it's
21 hearsay.

22 THE COURT: All right. Well, hearsay, there's a
23 little bit, but I don't --

24 MR. JACKSON: Because that's the text that's being
25 referred to. The Court saw how the evidence was

1 indisdiscriminate texts, and it was multiple --

2 THE COURT: I don't think. (Indiscernible.).

3 MR. JACKSON: Understood. And it certainly was
4 not any fault of Mr. Lally. Mr. Lally was doing the
5 best he could to get the (indiscernible). The best
6 evidence is actually the text messages. It's right
7 here (indiscernible) state of mind will have an effect
8 on the (indiscernible) the text messages. Mr. Lally
9 took great pains to certain of the text messages. Not
10 all of them. I will go through others, not all of
11 them, but this is a true reflection of the text
12 messages and which were reflected back and forth. So
13 for instance, this is the first one that I want to have
14 marked. I anticipate asking to mark about eight
15 packets that are just various -- they're short, but
16 they're all reflective of group chats, text messages
17 with the sister, with his colleagues, with his high
18 school buddies, things of that nature. The jurors are
19 entitled to see the actual text messages look like, and
20 he's (indiscernible) all of these.

21 THE COURT: All right. So authentication I'm not
22 concerned about. So you get the text message from the
23 Worcester, you put it up as a chalk with each and every
24 one of these?

25 MR. JACKSON: Correct.

1 THE COURT: All right. So I'm going to withhold
2 whether they're going to get introduced into evidence.
3 I need to think about this because I want you to
4 (indiscernible).

5 MR. YANNETTI: It's okay to publish?

6 THE COURT: Yes.

7 MR. JACKSON: Great. That's all -- at this point,
8 that's all I need. As long as it's a chalk --

9 THE COURT: And because I'm going to do that, I'm
10 going to (indiscernible). Okay.

11 MR. JACKSON: But you're not moving they're out
12 yet. Just --

13 THE COURT: Right.

14 MR. JACKSON: Okay. That's all I want.

15 THE COURT: So here is ZZ that you gave us.

16 MR. JACKSON: May I take this back to the
17 courtroom?

18 THE COURT: Yes. All set.

19 MR. JACKSON: All set. Thank you.
20 end of sidebar.)

21 MR. JACKSON: May I, Your Honor?

22 THE COURT: Yes.

23 MR. JACKSON: One more matter of housekeeping I
24 have another set of iOS messages that are inclusive of
25 pages 2527 seven through 2545. I'd like to have this

1 marked as for identification as next in order.

2 THE COURT: All right. If you have any others,
3 let's have them all marked for identification at the
4 same time.

5 MR. JACKSON: Sure. Your Honor, may I stand at
6 counsel table to deal with this?

7 THE COURT: Sure. Let's try to do it quickly. Mr.
8 Jackson, let's try and do it quickly. It's just for
9 identification.

10 MR. JACKSON: Yes, yes. These are all just for
11 identification. I'll give the Court the inclusive
12 Bates stamp numbers.

13 The next packet will be 2680 through 2685. Sorry.
14 That was the first one. That's been marked ZZ.

15 THE COURT: Right.

16 MR. BRENNAN: The second one is 25 -- 2527 through
17 2545. The next set would be a single page 2625. The
18 next packet would be 2662 through 2679. The next is
19 just two pages, 2623 and 2624. The next packet would
20 be 2518 through 2526. Following that, 2618 through
21 2620, then packet 2628 through 2634, and finally,
22 packet inclusive of 2583 to 2617.

23 THE COURT: All right. Madam Court Reporter, if
24 you'd be so kind to mark these.

25 MR. JACKSON: May I approach?

1 THE COURT: Yes.

2 (Whereupon Exhibit ZZ, Text Message Packet, was marked for
3 identification.)

4 (Whereupon Exhibit AAA, Text Message Packet, was marked for
5 identification.)

6 (Whereupon Exhibit BBB, Text Message Packet, was marked for
7 identification.)

8 (Whereupon Exhibit CCC, Text Message Packet, was marked for
9 identification.)

10 (Whereupon Exhibit DDD, Text Message Packet, was marked for
11 identification.)

12 (Whereupon Exhibit EEE, Text Message Packet, was marked for
13 identification.)

14 (Whereupon Exhibit FFF, Text Message Packet, was marked for
15 identification.)

16 (Whereupon Exhibit GGG, Text Message Packet, was marked for
17 identification.)

18 (Whereupon Exhibit HHH, Text Message Packet, was marked as
19 an exhibit.)

20 THE COURT REPORTER: Your Honor, that's ZZ through
21 HHH for identification.

22 THE COURT: All right. Go right ahead, Mr.
23 Jackson.

24 MR. JACKSON: Thank you, Your Honor.

25 **CROSS-EXAMINATION**

1 **BY MR. JACKSON, continued:**

2 Q Trooper Proctor, I'm going to ask you, if you
3 wouldn't mind, to turn to tab two in the binder in
4 front of you.

5 A (Witness complies.)

6 Q Can you take a look at the face page of what's
7 under tab two and tell me if you recognize that.

8 A Yes, sir. It's a prior text thread with high
9 school friends.

10 Q And this includes nine participants, nine chat
11 participants that you engaged with?

12 A That's correct.

13 Q Those participants include people by the name of
14 Bird, Whitey, and Doc, correct?

15 A Correct.

16 Q And then there's some other folks in there.
17 They're identified by their -- at least the last four
18 digits of their phone number, correct?

19 A Yes.

20 Q So this is a group text or a group chat with you
21 and eight of your high school friends about this
22 investigation, correct?

23 A Yes.

24 Q Trooper Proctor, you never thought when you were
25 engaged with these other eight individuals that this

1 particular set of chats would ever become public, did
2 you?

3 A No, I did not.

4 Q I want you to take a look at page 25, 27. If you
5 could turn -- that's on the bottom right of the
6 document in tab two. Do you recognize -- I'm sorry. Do
7 you have that page in front of you?

8 A Yes, sir.

9 Q You recognize that this chat, this group chat, was
10 taking place on January 29 at about 10:52 p.m.,
11 correct?

12 A Correct.

13 Q And the person that I'll identify as 5051, that's
14 the last four digits of that phone number, indicates,
15 "Chip, name of that BPD cop," correct?

16 A Correct.

17 Q First of all, you indicated on Monday that you're
18 Chip; is that right?

19 A Yes, sir.

20 Q You responded at 10:53 p.m., "John O'Keefe," is
21 that right??

22 A Yes, sir.

23 Q So you were willing to tell just a few hours into
24 an investigation of the death of a Boston police
25 officer, you were willing to tell a bunch of high

1 school buddies details about the investigation,
2 including the name of the victim, correct?

3 A At this point it was 16 hours later, sir, not a
4 few.

5 Q Sixteen is a few hours, correct? I'm not talking
6 about days later.

7 A It's -- there was about 16 hours later, sir.

8 Q Correct. And you identified John O'Keefe as the
9 Boston police officer who is fallen in the yard at 34
10 Fairview, correct?

11 A Correct.

12 Q You also informed, if you will skip to page 2529,
13 you also informed these same folks, these same high
14 school buddies, that, quote, all the powers that be
15 want answers ASAP, correct?

16 A Yes.

17 Q You knew, Trooper Proctor, that there was brass
18 that wanted this case wrapped up quickly and
19 efficiently; isn't that right?

20 MR. LALLY: Objection.

21 THE COURT: I'll allow that. Is that what you
22 were thinking?

23 A No. The people wanted answers, sir.

24 Q They wanted -- they didn't just want answers.
25 They wanted answers ASAP. What does ASAP mean?

1 A That's as soon as possible.

2 Q Right. And you were texting this to your high
3 school friends, again, 16 hours into this
4 investigation, right?

5 A Correct.

6 Q And you knew at that time, you knew at that time,
7 Trooper Proctor, that this was not going to implicate
8 in any way, shape, form, or fashion another cop,
9 correct?

10 A Correct.

11 Q And this text exchange -- let's turn to 2532,
12 actually.

13 Do I have that in front of you?

14 A I do.

15 Q In this text exchange at 10:56 p.m. your buddy
16 Bird writes, "I'm sure the owners of the house will
17 receive some shit," correct?

18 A Correct.

19 Q How did you take that to mean? Did you take that
20 to mean that he could get in trouble?

21 A Yeah. I'm not sure exactly what my friend was
22 getting at.

23 Q Well, you had some idea?

24 A Yeah. I maybe --

1 Q The owners of the house aren't going to get any
2 shit for this, right?

3 A That's how I interpreted it.

4 Q Yeah. You interpreted it like he's not going to
5 get in trouble. He's not going to be a suspect,
6 correct?

7 A Correct.

8 Q And he's not going to be implicated in anyway; is
9 that right?

10 A Correct.

11 Q And your answer was one word, correct?

12 A Yes.

13 Q What was that word?

14 A "Nope."

15 Q And then you followed that up with an explanation
16 as to why you said nope, didn't you?

17 A That wasn't the explanation why I said nope. I
18 simply said, "Homeowner is a Boston cop, too," meaning
19 Mr. O'Keefe was a Boston cop. The homeowner is Boston
20 cop as well.

21 Q The question that preceded your answer, "Nope. The
22 homeowner is a Boston cop, too," was the homeowner is
23 going to get some shit for this, correct?

24 A That's not what I meant with that text.

25 Q It's what you wrote.

1 A Not what I meant, sir.

2 Q All right. Let's take it in order.

3 Question, oh, goodness, the Boston cop -- I'm
4 sorry. "The homeowner is going to get some shit for
5 this."

6 Answer, "Nope."

7 Next text, "He's a Boston cop, too."

8 That doesn't sound like an explanation for your
9 nope.

10 A No, it's just saying he's a Boston cop as well.
11 Mr. O'Keefe is a Boston cop.

12 Q And that's why he's not going to get any shit,
13 correct, Trooper Proctor?

14 A Well, he's not going to receive any shit, sir,
15 because he had -- Mr. Albert, the homeowner, had
16 nothing to do with Mr. O'Keefe's death.

17 Q And you knew this 16 hours into your
18 investigation?

19 A Yes.

20 Q Less than a day?

21 A Yes.

22 Q To your satisfaction?

23 A To my satisfaction and to the members of my unit.

24 Q And you hadn't been to the crime scene --

1 THE COURT: So let him finish. We didn't get
2 that. Finish your answer.

3 A To my satisfaction and to all the members of my
4 unit who investigated the -- that day.

5 MR. JACKSON: Objection. Calls for speculation.

6 THE COURT: So I'm going to let it stand. Trooper
7 Proctor, you have to keep your voice up, okay? Jurors
8 need to hear you way back there.

9 THE WITNESS: Yes, ma'am.

10 Q The fact of the matter is you hadn't been to the
11 crime scene by the time you wrote this text, correct?

12 A Correct.

13 Q You hadn't been inside the home, correct?

14 A No.

15 Q You had investigated or, sorry, you had questioned
16 a grand total of three percipient witnesses at this
17 point, correct?

18 A Yes.

19 Q And two of the three were named McCabe, right?

20 A Correct.

21 Q And one of the three was named Albert, correct?

22 A Yes.

23 Q And it's against that backdrop that you wrote,
24 "Nope. The homeowner's not going to get any shit
25 because he's a cop," right?

1 A That's not what I meant by that.

2 Q At 10:57, Bird goes on to write, "He," the
3 homeowner, "must append a puddle to accomplish that."
4 And then he writes, "Who's the homeowner?" And then he
5 writes, "I hope not, but I can see it," correct?

6 A Yes.

7 Q A puddle means drunk, correct?

8 A That's a term for it, yes.

9 Q In other words, Bird wrote that the homeowner must
10 have been so drunk, so wasted to have killed him,
11 correct?

12 MR. LALLY: Objection.

13 THE COURT: Do you know what that means? Do you
14 know what that text means?

15 THE WITNESS: Just the puddle part, Your Honor.
16 The term -- that term.

17 THE COURT: All right. So he can answer that.

18 Q And the puddle part means drunk or wasted, right?

19 A Yes.

20 Q And what Bird actually wrote was, "He must've been
21 a puddle to accomplish that," correct?

22 A That's what he wrote.

23 Q And then you write back, quote, she waffled him.
24 I looked at his body at the hospital, right?

25 A Correct.

1 Q You used the phrase waffled about a Boston police
2 officer who had fallen in the snow and died in
3 someone's yard, and you decided to use the word waffled
4 it, correct?

5 MR. LALLY: Objection.

6 THE COURT: So sustained. Ask it differently, Mr.
7 Jackson.

8 Q Did you answer, "She waffled him. I looked at his
9 body at the hospital?"

10 A I did answer that, yes.

11 Q And then Bird questioned, "She waffled him,"
12 correct?

13 A Yes.

14 Q And then you responded, "He was banged up," is
15 that right?

16 A Yes.

17 Q Then a person with a phone number 0095 wrote, "I
18 thought he was drunk. Did he get beat up?" Do you see
19 that?

20 A I do.

21 Q And you wrote, "Nope," is that right?

22 A Correct.

23 Q Yet again, this is before 11 o'clock at night on
24 January 29, 2022, some 16 hours into your
25 investigation; is that right?

1 A Yes.

2 Q So before you ever went to the crime scene, before
3 you ever went into the house, only having interviewed
4 three folks, you had this case nice and wrapped up,
5 didn't you?

6 A Yes. Based on the evidence my office uncovered
7 that day, the one shoe discovered at the scene, the one
8 shoe at the hospital, Mr. O'Keefe's injuries, the
9 broken taillight pieces underneath the snow --

10 Q Trooper Proctor, I didn't ask for an explanation.
11 I asked --

12 A I --

13 Q -- did you in your mind have this case wrapped up?
14 Was it cut and dry in your mind?

15 A Yes.

16 Q Bird then writes so the owner of the house was a
17 woman -- sorry -- was a woman cop that beat him,
18 question mark, right?

19 A Yes.

20 Q And then you wrote, "That's what I initially
21 thought after talking to Canton paramedics," is that
22 right?

23 A Yes.

24 Q And then you said, "Then I saw the guy," correct?

25 A Correct.

1 Q So what you meant by that, Trooper Proctor, is
2 according to you, based on your conversations, your
3 initial conversations with the paramedics, the first
4 responders, you were under the impression that this was
5 a beating death. He had been beaten to death, correct?

6 A The way it was given to me, sir, was that --

7 Q That's yes or no.

8 A -- for medical --

9 Q That's yes or no.

10 THE COURT: He's going to answer the question. If
11 you want to withdraw the question, you can.

12 Q No. Go ahead.

13 A We entered this investigation with an open mind.
14 It was given to me as a medical situation, and when we
15 saw Mr. O'Keefe's body at the hospital, Sergeant
16 Bukhenik and I, we saw his injuries and we were kind of
17 working through how these injuries occurred.

18 Q As a matter of fact, both you and Sergeant
19 Bukhenik believed that he had suffered the injuries as
20 a result of a physical altercation based on information
21 you received from the paramedics, initially, correct?

22 A Initially, we didn't know what we had. We knew
23 there was some significant injuries to Mr. O'Keefe. We
24 were still figuring out how those injuries occurred.

1 Q Well, you just testified initially we didn't know
2 we had.

3 A Right.

4 Q But 16 hours after the fact, you wrote the
5 following sentence, "That's what I initially thought
6 after talking to Canton paramedics," correct?

7 A Correct.

8 Q So initially, you did think you knew what you had,
9 a physical altercation leading to a death, correct?

10 A Correct.

11 Q So when you just said, initially, we didn't know
12 what we had, that wasn't quite true. You did at least
13 have an idea of what you thought you had, correct?

14 MR. LALLY: Objection.

15 THE COURT: Sustained.

16 Q All right. You were aware initially that John
17 O'Keefe had suffered a 2 inch laceration to the back of
18 his head, correct?

19 A Yes.

20 Q That resulted in a skull fracture, correct?

21 A Correct.

22 Q He had a laceration over his right eye, a small
23 laceration just under the eyebrow, correct?

24 A Yes.

25 Q He had a laceration on his nose; is that right?

1 A Correct.

2 Q He had patterned scratches on his right arm,
3 abrasions, scratches, correct?

4 A Yes.

5 Q And he had no injuries below the neck?

6 A Not that I observed, sir.

7 Q Not a single broken bone, correct?

8 A Not that I was aware of.

9 Q Not a single fracture, correct?

10 A Not that I was aware of.

11 Q Not a single bruise below the neck, right?

12 A Not that I observed.

13 Q It looks a lot like a physical altercation,
14 doesn't it?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 Q Bird writes, "Bear, let's focus," correct?

18 A Yes.

19 Q Who's Bear?

20 A That's another nickname I have.

21 Q Zero-zero-ninety-five writes, "What does she
22 waffled him mean?" And then Bird writes, "What's the
23 story," correct?

24 A Correct.

1 Q And you wrote, "She hit him with her car," is that
2 right?

3 A Yes.

4 Q Have you ever seen, in your experience, have you
5 ever seen a pedestrian who was hit by a 6,000 pound car
6 with no bruises ever?

7 A The pedestrian strikes I've seen have been at high
8 speeds, 60 plus.

9 Q Enough to knock a person out of his shoe, right?

10 A Sixty plus miles per hour, so I can't recall right
11 now off the top of my head as far as injuries in the
12 past pedestrian strikes I've attended.

13 Q Okay. So someone -- you indicated on Monday under
14 examination by Mr. Lally, you've seen a shoe missing?

15 A Correct.

16 Q Pedestrian strikes, correct?

17 A Yes.

18 Q Those are high-speed, extremely high speed
19 incidents, correct?

20 A Yes.

21 Q Sixty plus mile an hour, right?

22 A I can't recall all the pedestrian strikes I've
23 been to as far as the miles per hour the vehicle was
24 traveling.

1 Q Trooper Proctor, let me ask the question again.
2 Have you ever, yes or no, have you ever in your
3 experience seen a vehicle, a pedestrian incident, in
4 which the pedestrian has no bruises?

5 MR. LALLY: Objection.

6 THE COURT: Have you seen that?

7 THE WITNESS: I can't -- I can't recall.

8 THE COURT: Okay. Next question.

9 Q After you wrote she hit him with her car, 5051
10 writes, "Oh, Jesus." And Bird writes, "Okay. That's
11 fucked up," correct?

12 A Correct.

13 Q And then you wrote what?

14 A "Intentional or not."

15 Q "Intentional or not," is that right?

16 A Yes.

17 Q Your words?

18 A Correct.

19 Q Zero-zero-ninety-five then chimes in, "Gotcha. He
20 was frozen in the driveway and she didn't see him?"
21 Correct?

22 A Correct.

23 Q And you wrote what?

24 A "That's another animal we won't be able to prove."

1 Q "That's another animal we won't be able to prove,"
2 correct?

3 A Correct.

4 Q Trooper Proctor, you knew that there were going to
5 be things in this case, even 16 hours into this, that
6 you just admitted you would have zero proof of,
7 correct?

8 MR. LALLY: Objection.

9 THE COURT: Sustained. You can ask it differently.

10 Q Did you mean by that statement that this was one
11 of several things that you knew we would not be able to
12 prove?

13 A That statement, "That's another animal we won't be
14 able to prove," references the intentional or not part.

15 Q You didn't don't care at that point when you wrote
16 that, you didn't care what you could or could not
17 prove, did you?

18 MR. LALLY: Objection.

19 THE COURT: I'll allow it.

20 Q Isn't that what you meant?

21 A No. I --

22 Q What kind of narrative that you had developed and
23 you would pursue it no matter what the proof was.
24 That's what you meant by that statement, correct?

25 MR. LALLY: Objection.

1 THE COURT: Sustained. You can ask it
2 differently, Mr. Jackson.

3 Q Did you mean by that --

4 MR. JACKSON: Thank you, Your Honor. I didn't
5 mean to step on your words.

6 Q Did you mean by that statement that you were going
7 to pursue this case no matter what the proof might be?

8 A What I meant by that statement was if Ms. Read
9 backed into Mr. O'Keefe intentionally or not.

10 Q Interestingly though, that statement came on the
11 heels of, "He was frozen in the driveway and she didn't
12 see him," and you wrote in response to that question,
13 "That's another animal we won't be able to prove,"
14 correct?

15 A That's not what I was responding to. I was
16 responding to the intentional or not part.

17 Q So you were responding to your own statement?

18 A Correct.

19 Q Okay. Zero-zero-ninety-five then writes, "What's
20 the name of the Canton cop living in Canton, the other
21 one involved," correct?

22 A Yes.

23 Q In other words, that person was asking tell me the
24 name of the homeowner; isn't that right?

25 A Yes.

1 Q The guy that's the cop, right?

2 A Correct.

3 Q And you ignored that question for a second time;
4 is that right?

5 A Yes.

6 Q As a matter of fact not one time, not once, in
7 this entire group chat did you disclose the name Brian
8 Albert, did you?

9 A I don't believe so, no.

10 Q You were actively trying to hide Brian Albert's
11 name at least from this conversation?

12 MR. LALLY: Objection.

13 THE COURT: I'll allow it. Is that what you were
14 trying to do?

15 THE WITNESS: Absolutely not.

16 Q But you had no problem sharing John O'Keefe's name
17 with your buddies from high school, right?

18 A Correct.

19 Q And you had no problem sharing Karen Read's name
20 with your buddies from high school, correct?

21 A I don't believe I named the defendant.

22 Q Not yet you didn't. Later in the chat.

23 A Okay, correct.

1 Q Fifty-fifty-one then writes, "The BPD have any
2 jurisdiction here because it was their own?" Is that
3 right?

4 A Yes.

5 Q And a few texts later, if you look down a few
6 texts at about 11 o'clock, do you see a text that stars
7 -- that starts, "Nah, Katt."

8 A I do, sir, yes.

9 Q You responded, quote, nah, N-A-H, "Nah, Katt,"
10 K-A-T-T, "it's the total opposite. They have to recuse
11 themselves. Same with Canton." Correct?

12 A That texts ends as at they have to recuse
13 themselves.

14 Q You then text back -- I'm sorry. May I have a
15 moment? Flip to the next page.

16 A I see where you're at, sir.

17 Q How did you end that text?

18 A "Same with Canton."

19 Q You meaning Canton has to recuse itself also,
20 correct?

21 A That was my understanding.

22 Q So by 11:00 p.m. on January 29, 2022, there was no
23 question in your mind, Trooper Proctor, that the Canton
24 Police Department was recused from this investigation

1 and all particulars, correct? A That they had taken a
2 step back from participating, yes.

3 Q Right. Well, there's one way to put it. They've
4 taken a step back from participating. Another way to
5 put it, is they recused themselves completely, correct?

6 A Correct.

7 Q They were not going to be, at least in your mind,
8 they were not to be involved in any way just like
9 Boston PD was not to be involved in any way; is that
10 right?

11 MR. LALLY: Objection.

12 THE CLERK: Is that what you were thinking?

13 THE WITNESS: It was my understanding they were
14 not going to be involved.

15 Q Now, if we could turn to page 2537, 5051 writes,
16 "But I assume you guys are out to make it cut and dry
17 since it involves cops," correct?

18 A Yes.

19 Q And Bird writes, "Something stinks," correct?

20 A Correct.

21 Q And then, Trooper Proctor, you responded, "Yeah,
22 but there will be some serious charges brought on the
23 girl," isn't that right?

24 A That's right.

1 Q So in that text exchange, you were saying, "Yeah,
2 we're out to make it cut and dry," correct?

3 A No.

4 Q You didn't write, yeah, we're going to follow the
5 evidence wherever it takes us, you didn't, did you?

6 A I did not write that.

7 Q You didn't write, yeah, we're going to make sure
8 that we investigate this thing fully and thoroughly
9 before making any decisions.

10 You didn't say that, did you?

11 A I did not.

12 Q You wrote, "Yeah, but there will be some serious
13 charges brought on the girl." Isn't that right?

14 A Correct.

15 Q And the reason you wrote that is because you knew,
16 as the text above it says, this has to be cut and dry
17 because it involves cops, right?

18 MR. LALLY: Objection.

19 THE COURT: I'm going to allow that. Is that the
20 reason you write it?

21 THE WITNESS: No, Your Honor.

22 Q And then you indicated, "We're going to put
23 serious charges on the girl." Who did you mean by the
24 girl, by the way?

25 A The defendant.

1 Q Karen Read?

2 A Yes, sir.

3 Q So the way you were going to make it cut and dry
4 pretty simple. Just pin it on the girl, right?

5 MR. LALLY: Objection.

6 THE COURT: Is that right?

7 THE WITNESS: Absolutely not. Follow the facts
8 and the evidence from that day on the 29th, and
9 everything led to Ms. Read hitting Mr. O'Keefe with her
10 vehicle.

11 Q But that wasn't the question that you were
12 answering, was it? We're going to follow the evidence
13 and make sure we do this thoroughly. The question you
14 were answering was, "I assume you guys," you, Trooper
15 Proctor, and your team are going to quote, make it cut
16 and dry since it involves cops, meaning Brian Albert,
17 correct?

18 A Incorrect. I don't -- it doesn't matter to me if
19 the homeowner's a cop, if the victim's a police
20 officer. Myself and everyone in my office investigated
21 this case that Saturday, had an overwhelming amount of
22 evidence that Ms. Read struck Mr. O'Keefe. So it
23 didn't matter to us what their occupation was.

24 Q We'll see. Let's keep reading, shall we?

1 Fifty-fifty-one a little further down says, "Got
2 to be. I can only imagine what internal affairs at BPD
3 are trying to get out there," correct?

4 A Correct.

5 Q Meaning this person, 5051, was opining at least in
6 your mind you interpreted that as being the Boston
7 police are going to have a lot to answer for given the
8 fact that another police officer was found dead on that
9 officer's lawn, correct?

10 MR. LALLY: Objection.

11 THE COURT: What were you thinking?

12 THE WITNESS: I can't speak to the mindset to that
13 comment. I wasn't sure how to interpret that one.

14 THE COURT: All right. Next question, Mr. Jackson.

15 Q Then 5051 changes gears, and he writes, "Is she
16 hot at least," correct?

17 A Yes.

18 Q And what was your response to that?

19 A "From all accounts, he didn't do a thing wrong.
20 She's a whack job cunt."

21 Q "From all accounts, he didn't do a thing wrong.
22 She's a whack job cunt." That's what you wrote,
23 correct?

24 A Correct.

25 Q Sixteen hours into this investigation?

1 A Yes.

2 Q Into your objective and unbiased thorough
3 investigation, correct?

4 A Correct.

5 Q Sir, you didn't have all accounts, did you?

6 A What I meant by that was --

7 Q Did you or did you not have all accounts in your
8 investigation?

9 A The accounts we had was Ms. Read struck Mr.
10 O'Keefe with her vehicle, discovered taillight pieces
11 at the scene. Those were the accounts we had --

12 Q The account you had --

13 A -- and then some.

14 Q I'm sorry. Go ahead.

15 A No, I'm sorry. Go ahead.

16 Q The accounts you had, Trooper Proctor, were from
17 two people named McCabe and one named Albert who
18 happened to be the homeowner and a Boston cop. Those
19 are the accounts from percipient witnesses that you
20 had, correct?

21 A There was another additional witness that we had
22 -- investigators had interviewed Ms. Roberts as well.

23 Q And from all accounts, he didn't do a thing wrong.
24 That was your decision 16 hours into the investigation,
25 correct?

1 A Yes.

2 Q And the other decision that you made and the other
3 determination that you came to was my client, Karen
4 Read, was a whack job cunt, right?

5 A Yes.

6 Q What else did you say in response to, "She's hot
7 at least," or, "Is she hot at least?"

8 A So following that text I responded, "Yep, she's a
9 babe. Weird Fall River accent though. No ass."

10 Q Yeah, she's a babe. Who's the she?

11 A Ms. Read.

12 Q "Weird Fall River accent, though." You're talking
13 about her -- the way she talks?

14 A The accent.

15 Q "And no ass." Now, you're talking about her body,
16 her physique, correct?

17 A Yes.

18 Q Do you think that's appropriate?

19 A Absolutely not.

20 Q Then Bird chimes in with a little comedy, "Ah, not
21 newsworthy then," correct?

22 A Correct.

23 Q In other words, well, if she had had an ass,
24 nothing to see here, correct?

25 MR. LALLY: Objection.

1 THE COURT: Sustained.

2 Q And then 5051 says, "Oh, she's skating," right?

3 A Correct.

4 Q And what did you write after that?

5 A My response was, "Zero chance she skated."

6 Q And then what did you write?

7 A "She's fucked."

8 Q "Zero chance she skates. She's fucked," right?

9 A Correct.

10 Q You decided on the 29th of January, 17 hours into
11 this investigation, you decided individually, Trooper
12 Proctor, you're not only going to put it on the girl,
13 you decided you're going to make sure this is cut and
14 dry and the way you're going to do is to make sure that
15 she's fucked. That's what you were saying.

16 MR. LALLY: Objection.

17 THE COURT: All right. So that's sustained. You
18 can -- the content's fine. You have to ask it
19 differently.

20 Q Seventeen hours into this investigation, Trooper
21 Proctor, you made the decision that you were going to
22 put it on Ms. Read, didn't you? Put the case on Ms.
23 Read. She was going to catch the case, correct?

24 A No, absolutely not.

1 Q What did you mean then when you said, "She's
2 fucked?"

3 A After the day's investigation, with multiple
4 troopers conducting multiple tasks, and a debriefing at
5 Canton PD amongst detectives in my office who went
6 through the overwhelming amount of evidence against Ms.
7 Read, that she struck Mr. O'Keefe with her vehicle,
8 that's what I meant by that comment.

9 Q What you meant by that comment, Trooper Proctor,
10 is you were going to make sure because 5051 had said,
11 "She's going to skate. She's skating." When you said,
12 "Zero chance she skates. She's fucked." What you meant
13 was I'm going to make sure, I am going to make sure Ms.
14 Read doesn't skate. She fucked. That's what you meant;
15 isn't it?

16 MR. LALLY: Objection.

17 THE COURT: Sustained.

18 Q And then Bird decides to chime in, "Good. No ass
19 bitch," right?

20 A Yes, that's what he wrote.

21 Q And what did -- how did you respond to Bird
22 saying, "Good. No ass bitch?"

23 A I laughed.

24 Q You thought that was funny, did you? Trooper
25 Proctor, you thought that was funny?

1 A It was unprofessional of me. It's something I
2 shouldn't have done.

3 Q Oh, I think we all know it was unprofessional. It
4 was a lot of things.

5 A Yep.

6 Q I'm asking did you think it was funny?

7 A According to my response at the time, apparently.

8 Q Then you sent a picture just to add to it to pile
9 on of Ms. Read being arrested, correct?

10 A I don't -- I'm not sure if that came from me, sir.

11 Q Let's skip to 2543. Are you there, Trooper
12 Proctor?

13 A Yes.

14 Q The date is now February 2, 2022. A person by the
15 name of Doc writes, "Is that chick a smoke," correct?

16 A Correct.

17 Q Who's the chick?

18 A Ms. Read.

19 Q And you write, "Eh," E-H, right?

20 A Yes.

21 Q And then you write nut bag as chief would say,
22 correct?

23 A Correct.

24 Q Who's chief?

25 A A friend of mine.

1 Q And then you write what?

2 A "She's got a leaky balloon knot."

3 Q Trooper Proctor, explain to the jurors what a
4 balloon knot is.

5 A Your -- essentially, I guess your rectum area.

6 Q Your anus?

7 A Yes.

8 Q That's what you were referring to about Ms. Read?

9 A Yes.

10 Q And you were making fun of her because you
11 believed at that time it leaked that's how you were
12 treating Ms. Read? Yes or no?

13 A Yes.

14 Q And then you followed that up, just to make sure
15 you cleared up any mistake about what you meant, with,
16 "leaks poo," correct?

17 MR. LALLY: Objection.

18 THE COURT: All right. So I'm go to strike that.
19 You can get this in, but do it the right way, Mr.
20 Jackson.

21 Q You followed that up with the phrase, "Leaks poo,"
22 didn't you?

23 A I did.

24 Q Again another reference to Ms. Read's medical
25 issues and medical conditions, correct?

1 A Correct.

2 Q Specifically focused on her anus, correct?

3 A In reference, yes.

4 Q Were you aware at the time that you wrote this
5 that Ms. Read had suffered a colectomy surgery, a very
6 serious surgery?

7 A I was not, sir, no.

8 Q Were you aware that she had had ten surgeries in
9 eighteen months several years prior, ten?

10 A I was not aware of that.

11 Q Were you aware that she had serious medical
12 issues, gastrointestinal medical issues, that she
13 suffered with, she was a victim of for years? Did you
14 know that?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 Q But you decided that you were going to take
18 another shot at her and talk about her anatomy --

19 THE COURT REPORTER: One second, sir, sorry. All
20 set.

21 Q You decided that you were going to take another
22 shot at her and talk about her anatomy as a balloon
23 knot, correct?

24 MR. LALLY: Objection.

25 THE COURT: Sustained.

1 Q At this point, Trooper Proctor, Ms. Read was just
2 reduced to a punch line to you, wasn't she?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 Q Well, you weren't done yet. This chat doesn't end
6 yet, does it?

7 A No, sir.

8 Q Let's skip to 2543. On the same date February 2,
9 2022, at about 4:15 p.m., a person by the name of
10 Whitey wrote, "What are you guzzling on," correct?

11 A Yes.

12 Q And you wrote, "Nothing. Writing a warrant." Is
13 that right?

14 A Correct.

15 Q Whitey then shares some sort of a video, correct?

16 A Yes.

17 Q Do you remember that video being of the 1980's
18 band Warrant?

19 A I don't recall the video he sent.

20 Q Zero-zero-ninety-five laughed and then wrote,
21 "Wait. Why does her asshole leak," correct?

22 A Yes, that's what he wrote.

23 Q And then what did Doc write in response to that?

24 MR. LALLY: Objection, Your Honor.

1 THE COURT: The objection is sustained. I'll see
2 you at sidebar. Take that down, please.

3 (Sidebar commences:

4 THE COURT: All right. Your objection, Mr. Lally?

5 MR. LALLY: Your Honor, the remainder of this
6 packet identification is nothing is from this witness.
7 It's all from other people.

8 MR. JACKSON: They're not from other people;
9 they're to him, and it goes to his state of mind.
10 These are dehumanizing, absolutely offensive
11 dehumanizing text messages that he was receiving, and
12 he did nothing to correct it and every one of these was
13 on the heels of him disclosing private, confidential
14 medical issues about Ms. Read with his friends.

15 THE COURT: Okay. These aren't coming in. There
16 was one response from him. (Indiscernible.)
17 end of sidebar.)

18 Q Without reference to --

19 THE COURT: Take that down.

20 MR. JACKSON: May I, Your Honor? I'm sorry. Go
21 ahead and pull it off.

22 Q Without reference to the specifics of what was --

23 THE COURT: I'm going to see counsel at sidebar.

24 MR. JACKSON: Sure.

25 (Sidebar commences:

1 THE COURT: Was that up the whole time? I told
2 your IT guy to take it down. I excluded it and we come
3 out, and it's up?

4 MR. JACKSON: He just put it up. He didn't know.
5 He didn't know the instruction.

6 THE COURT: No, but he shouldn't have put it up
7 without you telling him to put it up, and that can't
8 happen again, Mr. Jackson.

9 MR. JACKSON: Okay. Understood.

10 THE COURT: Why don't you go tell him it so I
11 don't bring him up here and tell him in front of the
12 jury.

13 MR. JACKSON: Sure. I will. I have one follow-up
14 question that is just -- was there a continue -- I need
15 to close this loop. Was there a continued conversation
16 that you received without telling me any of the
17 conversation.

18 THE COURT: Yeah, that's fine, but he better not
19 do that again.

20 MR. JACKSON: Okay. I'll let him know.

21 THE COURT: And, honestly, if he does, I don't
22 know if it was intentional or not, but I excluded it.
23 I sit down, I look up, it's there, he won't be in the
24 courtroom again, Mr. Jackson.

1 MR. JACKSON: Your Honor, in his defense, he
2 didn't hear you exclude it. That was a sidebar --

3 THE COURT: But it doesn't matter when it's
4 excluded, and we're at sidebar, he's not to put it up
5 until you tell him you can go ahead and put it up.

6 MR. JACKSON: Understood.

7 THE COURT: Go tell him right now, please.

8 MR. JACKSON: Okay.

9 end of sidebar.)

10 Q Trooper Proctor, without getting into the
11 specifics of the words used in the following -- in the
12 next exchange that you're looking at, it's fair to say
13 that your high school buddies then continue to discuss
14 Ms. Read's medical issues, correct?

15 MR. LALLY: Objection.

16 THE COURT: That's sustained. Come on, Mr.
17 Jackson. That isn't what you said you'd ask. Go ahead
18 and ask the question you said you'd ask.

19 Q Was there a continued discussion that finished on
20 this subject matter?

21 A Yes.

22 Q On Monday, you indicated that your conduct in this
23 case, and specifically your conduct as reflected in
24 these messages, how did you put it, it did not affect

1 the integrity of the investigation, of your
2 investigation, correct?

3 A Correct.

4 Q That's what you said to the jurors?

5 A Correct.

6 Q Do you know what the definition of integrity is?

7 A Doing the right thing when no one is looking.

8 Q It means the quality of being honest and having
9 strong moral principles, correct?

10 MR. LALLY: Objection.

11 THE COURT: Sustained.

12 Q Do you believe that integrity means being honest
13 and having strong moral principles?

14 A I believe that's part of it as well.

15 Q Do you stand by the testimony that you were
16 showing strong moral principles in this investigation,
17 sir?

18 A In the investigation part, absolutely. Through
19 these text messages, absolutely not. They were
20 juvenile and regrettable.

21 Q When you say they're juvenile and regrettable, it
22 sounds like you're almost apologizing to the jury for
23 your conduct. Is that what you're doing?

24 A For those text --

25 MR. LALLY: Objection, Your Honor.

1 THE COURT: Sustained.

2 Q Trooper Proctor, have you ever apologized to Ms.
3 Read?

4 MR. LALLY: Objection.

5 THE COURT: Sustained.

6 Q As the lead investigator in this case, you were
7 tasked with the responsibility of making sure that the
8 investigation remained free of any conflicts of
9 interest. That's part of your job, correct?

10 A Correct.

11 Q Throughout the pendency of this investigation in
12 this case, you've denied having any conflict of
13 interest in this case; isn't that right?

14 A Correct.

15 Q In fact a couple of months ago in February of
16 2024, you testified in a different proceeding; is that
17 right?

18 A Yes.

19 Q And you testified under oath in that proceeding on
20 February 1, that you did not know any members of the
21 Albert family or McCabe family, correct?

22 A Certain members of the Albert family I did not
23 know. I know Chris and Julie and Colin. I don't know
24 the McCabes.

1 Q That wasn't my question. Did you testify -- let's
2 take them one at a time.

3 Did you testify under oath, same oath you took
4 here today, in a former proceeding in February of 2024
5 that you did not know and did not have any relationship
6 with members of the Albert and McCabe families? Did
7 you?

8 A I haven't had a chance to review those minutes.
9 I've only had one opportunity to and that was a couple
10 months ago. So I would want to review those minutes in
11 order to answer that accurately.

12 Q You can't remember how you testified whether or
13 not you knew or had relationships with the Alberts and
14 McCabes?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 Q As you sit here right now, you need to refresh
18 your recollection? You can't remember what you said?

19 MR. LALLY: Objection.

20 THE COURT: Do you remember what you said?

21 THE WITNESS: During that proceeding, no.

22 Q Would it refresh your recollection if you took a
23 look at those grand jury minutes?

24 A Yes.

25 THE COURT: What page, Mr. Jackson?

1 MR. JACKSON: This is page 01563.

2 If I may have just a moment, Your Honor?

3 THE COURT: Yes.

4 MR. JACKSON: May I approach?

5 THE COURT: Yes.

6 Q Trooper, review that and look up when you're
7 finished.

8 MR. JACKSON: May I, Your Honor?

9 THE COURT: Okay.

10 Q Did that refresh your recollection about a
11 question and answer that you have, or a series of
12 questions and answers that you had, while you were
13 testifying under oath in that other proceeding?

14 A Yes, sir.

15 MR. LALLY: Objection. May we approach?

16 THE COURT: Yes.

17 (Sidebar commences:

18 THE COURT: What's the objection?

19 MR. LALLY: The objection is there's one page that
20 he's shown the witness doesn't answer the question that
21 he was asked that's talking about a discussion with
22 other people within the district attorney's office
23 about what he told them, not what he testified to as
24 far as his knowledge goes. That comes later in which

1 his testimony there is consistent with what his
2 testimony just was.

3 THE COURT: What page is the later testimony?

4 MR. LALLY: I haven't been able to locate that
5 just yet, but it's also within a much longer
6 discussion, so I think it's unfair to the witness to
7 show him one page and ask him a question that doesn't
8 reflect the testimony that he's asking about.

9 THE COURT: What do you want to say?

10 MR. JACKSON: Mr. Lally is fully capable of
11 cleaning up whatever he thinks needs to be cleaned on
12 cross-examination -- on redirect examination. This is
13 direct testimony from him talking about whether or not
14 he has a relationship with the McCabes, and he
15 testified under oath that he told members of the DA's
16 office that he did not, and he said in a question
17 before that, his answer was the same --

18 THE COURT: This is the --

19 MR. JACKSON: Correct.

20 THE COURT: So what are you putting in on this
21 page?

22 MR. JACKSON: Starting with, with respect to your
23 conversation, you told the DA's office that you didn't
24 know, didn't have a relationship with members of the
25 Alberts, and he answered yes.

1 THE COURT: And you're going through lines 8
2 through line 19?

3 MR. JACKSON: Yes.

4 THE COURT: Okay. So, Mr. Lally, I'm going to let
5 him do this, and then we'll take it from there
6 regarding. I received a packet this morning of photos.
7 We'll deal with that separately.

8 MR. JACKSON: Okay. And that's coming in soon.
9 I'm going to establish the foundation for this.

10 THE COURT: I don't see how you're getting that
11 in, but we'll deal with it when it comes to that.

12 MR. JACKSON: Okay.

13 THE COURT: So do not let him put it up on that
14 screen. MR. JACKSON: Understood. Understood.
15 end of sidebar.)

16 MR. JACKSON: May I, Your Honor?

17 THE COURT: Yes.

18 MR. JACKSON: Thank you.

19 Q You were asked the question, quote, did you
20 communicate with first assistant DA Beland that you did
21 not know and had no relationship with the Albert and
22 McCabe families. And you answered, quote, I -- to the
23 best of my recollection the same conversation took
24 place with everyone I talked to about this because it's
25 the same answer. It's the facts that I shared with

1 everyone." Question, "Meaning you told First Assistant
2 Beland that you didn't know, didn't have relationships
3 with."

4 MR. LALLY: Objection, Your Honor.

5 Q "Members of the Albert and McCabe families?"

6 Answer, "Correct."

7 A Yes, that's the --

8 THE COURT: So your question is whether he said
9 this?

10 MR. JACKSON: Correct. Whether that's his
11 testimony.

12 Q Do you recall that?

13 A Yes.

14 Q And that's your testimony that you in fact told
15 members of the DA's office that you did not know and
16 did not have a relationship with the Alberts or
17 McCabes; is that right?

18 A I did not know the McCabes. I don't know most of
19 the Alberts, and I have little to no relationship with
20 Chris and Julie. So that's what I meant by that
21 answer.

22 Q Well, the question wasn't did you know most of the
23 Alberts. The question was, did you have a relationship
24 with or did you know the Alberts, and your answer was
25 no.

1 A No, I don't have a relationship with the Alberts.

2 Q Or know them.

3 A I don't know the McCabes. I don't have a
4 relationship with the Alberts.

5 Q So you do know the Alberts, correct?

6 A I know some of them - Julie and Chris.

7 Q And you -- and Colin, correct?

8 A Correct. And Colin.

9 Q And you knew the Alberts when you gave this
10 testimony in February of 2024; is that right?

11 A Yeah, they asked if there was any relationships.

12 Q And let's try this again. Meaning you told First
13 Assistant Beland that you didn't know, didn't have
14 relationships with members of the Alberts -- sorry --
15 members of the Albert and McCabe families. Answer,
16 "Correct."

17 A Mm-hmm.

18 Q Was that ambiguous in your mind?

19 A The way I interpreted relationships was basically
20 being like friends or, you know, communications,
21 frequent communications. That's how I interpret
22 relation --

23 Q Well, that might have been a good time to pipe up
24 and say, well, I know Chris and I know Julie and I know
25 Colin, correct?

1 MR. LALLY: Objection.

2 THE COURT: Sustained.

3 Q That might've been a good time to answer the
4 question, "I know these three individuals from the
5 Albert family," right?

6 MR. LALLY: Objection.

7 THE COURT: Sustained.

8 Q But your answer was one word, "Correct," right?

9 A Yes.

10 Q You further testified that you never have gone to
11 any supervisor at Massachusetts State Police to
12 disclose even a potential conflict of interest in this
13 case that you might have, correct?

14 A Correct.

15 Q And you indicated the needs never come back; is
16 that right?

17 A Correct.

18 Q You also told ADA Lally that you, quote, did not
19 have relationships with -- I'm sorry -- did not have
20 relationships or no members of the Alberts or McCabe
21 families, correct?

22 A Correct.

23 Q And that's just not true, is it? You did know,
24 you do know members of the Albert family; isn't that
25 right?

1 A It's different from having a relationship with
2 people.

3 Q But what about part of the question did not have
4 relationships or know members of the Albert or McCabe
5 families. How about that part of the question?

6 A Well, that's lumped in with the McCabes. I don't
7 know the McCabe family, sir.

8 Q I see. So what you did, Trooper Proctor, is you
9 dissected the sentence, and where relationships are
10 concerned, you ignored that in terms of the Alberts
11 because you don't have relationships. Where know is
12 concerned, you link that to the McCabes because you
13 don't know the McCabes. That's what you did?

14 MR. LALLY: Objection.

15 A No.

16 THE COURT: So it's sustained. You ask it. You
17 can break it down, Mr. Jackson.

18 MR. JACKSON: I'm not sure I can. I'll ask it a
19 different way.

20 Q How about if I just ask it this way. That was a
21 lie, wasn't it?

22 A No, absolutely not.

23 Q You stand by that testimony?

24 A Yes.

1 Q That you don't know the McCabe -- at the time that
2 you testified that you didn't know the Alberts or any
3 members of the Albert family?

4 A I didn't have relationships with them.

5 Q Okay. My question is you keep going back to
6 relationships. I'm asking you, did you testify that
7 you didn't know them?

8 MR. LALLY: Objection.

9 THE COURT: I'll let him have it. Do you
10 understand the question, Trooper?

11 THE WITNESS: I knew Chris, Julie, and Colin.

12 Q So if you were to say I don't know any members of
13 the Albert family, that would've been a lie, correct?

14 MR. LALLY: Objection.

15 THE COURT: Sustained.

16 MR. JACKSON: Your Honor, this is the point at
17 which I intend to turn to tab three, and I think we
18 need to approach.

19 THE COURT: Okay. Jurors, feel free to stand up.
20 (Sidebar commences:

21 THE COURT: So I don't know what tab 3 is, the
22 photos?

23 MR. JACKSON: It's 13 --

1 THE COURT: So I mismarked everything else. I
2 thought we were just doing text messages marked for
3 identification.

4 MR. JACKSON: I knew that this was going to be a
5 different animal.

6 THE CLERK: I can't be on the sound because Ms.
7 Karen can't hear. You have to keep your voices down.
8 The jurors can hear you.

9 THE COURT: Thank you.

10 MR. JACKSON: Understood. Thank you.

11 THE COURT: All right. Mr. Lally, I'll hear you.

12 MR. LALLY: Your Honor, as far as any of these are
13 concerned, they're far too removed as far as the days
14 go. They're completely irrelevant. It doesn't go to
15 anything as far as impeachment or bias. He's already
16 indicated that he has relationships or his sister has
17 relationships with these parties. The part that's
18 unclear as far as comments is this is complete and
19 utter hearsay. So essentially what you have is a
20 photograph of this witness when he graduates from the
21 academy with his sister, him and his sister having
22 photographs with other people that the witness has
23 already indicated they know.

24 THE COURT: What's this marked?

25 THE CLERK: Which one?

1 THE COURT: Tab 3.

2 MS. LITTLE: She hasn't marked it.

3 MR. JACKSON: We hadn't marked that one yet
4 because we knew that there was going to be discussion.

5 THE COURT: I'm going to have it marked.

6 (Whereupon Exhibit III, Photograph, was marked for
7 identification.)

8 THE COURT: All right. Are you done, Mr. Lally?

9 MR. LALLY: Yes, Your Honor.

10 THE COURT: All right. Mr. Jackson, go ahead and
11 make your record.

12 MR. JACKSON: Your Honor, we've been extremely
13 diligent to be refined in the photographs and
14 information that we intend to use. There's 13
15 photographs there. Every single one of them establishes
16 a period in time going back - literally going back
17 decades or a decade - with various individuals that
18 know and are associated with the Alberts and the
19 Proctors. The --

20 THE COURT: Okay. Specifically, though, anybody
21 beyond the Julie, Chris, and Colin Albert that he's
22 already said that he had -- that he knew and his sister
23 was friends with?

24 MR. JACKSON: No.

25 THE COURT: Okay.

1 MR. JACKSON: The bulk of these are Julie, Chris,
2 Colin being associated with his sister, himself, his
3 father --

4 THE COURT: Proctor.

5 MR. JACKSON: Proctor himself, Proctor sister's
6 Courtney who he's testified is his best friend and he
7 talks to five to six times a day, his father, his
8 mother, those individuals being at his parents' home.
9 There's photographs of that. There's a lot of
10 indicators that Julie and Courtney are best friends,
11 that they communicate consistently and the reason this
12 becomes important --

13 THE COURT: How does Julie's sister who was best
14 friends with Courtney --

15 MR. JACKSON: Well, Joanne and Julie both. Joanne
16 and Julie both -- I know it's like I need a chart.
17 Joanne Daniels and Julie Albert are sisters.

18 THE COURT: Right.

19 MR. JACKSON: And Courtney is friends with both of
20 them, very, very close friends with both of them. The
21 relationships span not just years but also specifics
22 concerning this particular instant -- instance. Julie
23 is texting -- what will come out next is that Julie was
24 texting with Courtney who was texting with Michael on
25 days and within minutes of each other having

1 interactions with each other. So I need to establish
2 that Courtney and Julie are extremely close, that
3 Michael and Courtney are extremely close, and that that
4 relationship has morphed into Michael being close to
5 Julie's family, specifically culminating with in the
6 zenith of all of this is the last couple of indicators
7 are, they texted with each other - Julie and Michael
8 texted with each other ten days before John O'Keefe was
9 killed that he was considering having Julie babysit his
10 child, as well as his mother saying the Proctor family
11 and Albert family are second families with one another.

12 THE COURT: Okay.

13 MR. JACKSON: We've been pretty refined about
14 these, and I don't have to spend a lot of time on each
15 one, but I think the jurors are entitled to see what he
16 says as he just testified, "I don't know. I have a
17 limited relationship with these folks." That's just
18 not true. He had a deep-seated relationship with these
19 folks even through his best friend and sister,
20 Courtney, as well as himself.

21 THE COURT: Okay. Anything else, Mr. Lally?

22 MR. LALLY: No.

23 THE COURT: Okay. The objection's sustained.
24 They're not coming in.

25 MR. JACKSON: May I refer to them?

1 THE COURT: How so?

2 MR. JACKSON: Ask him, are there Facebook posts
3 that you're aware of, are there photos that you're
4 aware of where you and your family, your immediate
5 family, is commenting on posts about you, et cetera.

6 THE COURT: What's the Commonwealth's position?

7 MR. LALLY: Your Honor, if he's aware of them,
8 he's aware of them through intimidation and what he's
9 received in regard to this case.

10 The other thing I --

11 THE COURT: All right. So you're on notice, that
12 if you do it, it does open that door.

13 MR. JACKSON: I'm fine with that. I mean, good
14 luck. I mean, yes.

15 THE COURT: But if there's an objection, I'll have
16 to hear it.

17 MR. JACKSON: Especially as it refers to the first
18 photograph. If you look at the fourth post down,
19 that's not from -- is it fourth post or?

20 THE COURT: Julie Daniels Albert.

21 MR. JACKSON: Yeah, that's not from someone
22 tangential. Julie Daniels was interviewed by that man
23 several years later and he never disclosed --

24 THE COURT: Ten.

25 MR. JACKSON: Right. That works in my favor.

1 THE COURT: All right. So these are not coming in.
2 I'm not going to let you reference them. If you feel
3 that there's an absolute need based on an answer given
4 by this witness, I'll decide that first.

5 MR. JACKSON: May I just have a moment?
6 (Counsel confer.)

7 MR. JACKSON: Right. Counsel has just reminded me
8 just to remind the Court or inform the Court that there
9 are multiple photos in there that are from '21 -- 2021
10 and 2022, both preceding and post-dating the death of
11 John O'Keefe and his involvement in this investigation.
12 So I would ask that I at least be able to reference
13 those. I think those are toward the rear (indicating).
14 Right, so that's from 2022.

15 THE COURT: And that's Proctor's mother?

16 MR. JACKSON: Proctor's mother.

17 THE COURT: Are you objecting to that, Mr. Lally?

18 MR. LALLY: Your Honor, I haven't seen these.
19 What I was sent was three photos, so if I should take a
20 look.

21 THE COURT: You're making noise on the camera.
22 Step back with that because the moving of pages is
23 disruptive for Madam Court Reporter. I've done it,
24 too, because there's no place to put anything over
25 here.

1 Is there an objection?

2 MR. LALLY: Yes.

3 THE COURT: All right. The objection's sustained.
4 If you develop something, come to sidebar before you
5 think there's something in here that was developed that
6 will change my ruling.

7 Your rights are saved.

8 MR. JACKSON: Okay. And so I can -- I don't want
9 to step on the Court's ruling and get dressed down for
10 it. If I can reference that he's aware. He was
11 (indiscernible) I think every single one of these
12 photographs at the other proceeding.

13 THE COURT: Well, that doesn't mean they're
14 admissible here.

15 MR. JACKSON: That's not what I was suggesting. I
16 was going to ask, am I allowed to ask are you aware of
17 certain posts and text messages in friend groups and
18 things of that nature that your sister and you and your
19 family and your mother and father all have developed
20 over the years with the Albert family - with Julie
21 Albert, Chris Albert, and Colin Albert.

22 THE COURT: All right. So if that question were
23 asked, I would sustain an objection based on the
24 question.

1 MR. JACKSON: Right. But I can figure it out,
2 like, ten different ways to ask it correctly. That
3 wasn't --

4 THE COURT: I'm not so sure, frankly. No, move
5 along from this. You've got a long time, and we can
6 address it again later.

7 end of sidebar.)

8 MR. JACKSON: May I have just a moment, Your
9 Honor?

10 THE COURT: Yes.

11 Q Trooper Proctor, you have indicated that your
12 sister is one of your best friends, maybe your best
13 friend?

14 A Yes.

15 Q Courtney Proctor, that's her name?

16 A Correct.

17 Q Courtney --

18 A I'm sorry?

19 Q Her last name?

20 A Elberg.

21 Q Elberg with an L. And you're aware that she is
22 also very, very good friends with Jillian Daniels and
23 Julie Albert?

24 A Correct.

1 Q Are you aware of any circumstance in which any of
2 the Alberts have been over to your parents' house?

3 A Yes.

4 Q Have you ever been over to your parents' house
5 when any of the Alberts have been at your parents'
6 house?

7 A Yes.

8 Q Those Alberts include Chris Albert, Julie Albert,
9 and Colin Albert, correct?

10 A Correct.

11 Q As a matter fact, you were on or around January
12 29, 2022, you were close enough friends with Julie
13 Albert that she had your personal cell phone in her
14 cell phone, correct, and vice versa?

15 A I wouldn't classify us as close friends at all.

16 Q Okay. Let me get back to my question. Did you
17 have her cell phone in your phone and did she have
18 yours?

19 A I can't recall if I -- yeah, I believe I had her
20 stored in my phone.

21 Q All right. If you would turn to tab four.

22 THE COURT: And what was this marked for ID?

23 MR. JACKSON: This was --

24 THE COURT: Or tell me the numbers at the bottom.

1 MR. JACKSON: Oh, I got the sheet right here. I
2 got a cheat sheet. Tab four is triple B as in bravo.
3 And, Your Honor, for the Court, I'm looking at page
4 2625.

5 THE COURT: Yep.

6 Q You have that in front of you, sir?

7 A Yes, sir.

8 Q Do you recognize the participants in this chat?

9 A I do.

10 Q The number ending in 5374, do you recognize that
11 as being from Julie Albert?

12 A Based off the content of the message, yeah, I
13 recognize this text message from Julie.

14 Q And she texts, "This is the weekend I've been
15 waiting for, Michael. Please send ski videos if CP
16 doesn't share with me," with a laughing face, correct?

17 A Correct.

18 Q That text was sent on February 24, 2022, wasn't
19 it?

20 A Yes.

21 Q That was less than a month after my Mr. O'Keefe's
22 death; isn't that right?

23 A Correct.

1 Q And less than a month after you had been assigned
2 to the investigation in which Julie Albert was a
3 witness, correct?

4 A Correct.

5 Q And her husband Chris Albert was a witness,
6 correct?

7 A Correct.

8 Q And her son you knew Colin, was involved as well,
9 correct?

10 A Yes.

11 Q Who is CP in that text message?

12 A It's a nickname I have for my sister.

13 Q Courtney Proctor, correct?

14 A Correct.

15 MR. JACKSON: Your Honor, if I may have just a
16 moment. THE COURT: Okay.

17 MR. JACKSON: Gesundheit.

18 Q Can we move to, Trooper Proctor, to tab five,
19 please. That's triple C as in Charlie.

20 Do you have that in front of you, sir?

21 A Yes.

22 Q And this would be page 2664. If you could turn to
23 that page, please.

24 A Okay.

1 Q Trooper Proctor, on January 19, 2022, ten days
2 before Mr. O'Keefe's death, you were texting with your
3 sister about whether Julie Albert might be available to
4 babysit for your own son, correct?

5 A Yes.

6 Q So in fact, your relationship with the Alberts was
7 close enough that you would consider leaving your own
8 child in the hands of Julie Albert as a babysitter, as
9 a caregiver for your toddler, correct?

10 A I wouldn't say close enough. I've hired
11 babysitters that I vet out, but I don't know.

12 Q But Julie Albert was among them, correct?

13 A Yes, she was an option to have watch my child.

14 Q And then you personally interviewed Julie Albert
15 and Chris Albert in this case on February 10, 2022?

16 A Sergeant Bukhenik and I did, yes.

17 Q And you didn't mention a thing about your
18 relationship with Julie Albert, Chris Albert, or Colin
19 Albert in any report that you ever drafted in this
20 case, did you?

21 A I did not.

22 Q Not one word, correct?

23 A No, sir.

24 Q You interviewed Julie and Chris Albert at about
25 5:30 p.m. on the 10th of February; isn't that right?

1 A Yes.

2 Q Did either of them, Julie or Chris Albert, mention
3 that their son Colin Albert had been at 34 Fairview
4 Road on the night in question, January 29?

5 A I'd have to reread the report to refresh my memory
6 on their statements.

7 Q Well, let me ask it a different way.

8 MR. LALLY: If I may just have a moment, Your
9 Honor.

10 THE COURT: Yes.

11 Q You wrote a report on October 12, 2022, correct?

12 A For which?

13 Q Concerning your interview with --

14 THE COURT: Why don't you show it to him.

15 MR. JACKSON: I may have the wrong report.

16 Q Do you recall, Trooper Proctor, ever mentioning
17 that whether or not Julie and Chris mentioned to you
18 that their son had been at 34 Fairview on January 29.
19 Do you recall that as you sit here?

20 A To the best of my recollection, no.

21 Q It was a very short interview with Julie and
22 Chris, was it not?

23 A Typical length for the information they had to
24 offer.

1 Q So you started the interview about 5:30 p.m. It
2 must have been relatively short because you received a
3 phone call by 6:17 from Julie Albert yourself, correct?

4 A I don't have the call detail in front of me, but,
5 okay, yes.

6 Q Let's look at tab six, please. It may not be in
7 your book.

8 A It's not, sir.

9 Q Okay. Fair enough.

10 You indicated that you might need to look at a
11 phone record or a phone log to determine whether or not
12 that call was made and what time it was made, correct?

13 A If you have that, please.

14 MR. JACKSON: May I approach, Your Honor?

15 THE COURT: Yes.

16 A Thank you.

17 Q There's a highlighted portion, Trooper Proctor.
18 Just focus your attention on that and let me know if
19 that refreshes your recollection.

20 A It does, sir. Thank you.

21 MR. JACKSON: May I approach?

22 THE COURT: Yes.

23 Q You received -- after your interview, you received
24 a phone call from Julie Albert about 6:17 about 45

1 minutes after you began the interview and then left,
2 correct?

3 A Yes.

4 Q At 6:21, you called her back and you spoke for
5 three minutes and fifty-eight seconds; is that right?

6 A Yes.

7 Q Did you discuss the interview?

8 A I don't recall the content of that conversation.

9 Q And of course, you never memorialized that in any
10 report, did you, the fact that you had a subsequent
11 phone call with Julie Albert on your personal cell
12 phone?

13 A I did not.

14 Q Let's turn to tab five one more time. And if you
15 could turn to page 2677.

16 Trooper Proctor, after your interview with Julie
17 Albert, your sister Courtney texted you, "How did it go
18 at Julie's? She was so nervous." Do you recall that?

19 A Yes.

20 Q In fact, you responded to that with a, "Ha, ha,
21 ha, ha," four ha's, right, and then, "Why?" Correct?

22 A Correct.

23 Q Then you responded, "It was fine. Just a quick
24 convo," correct?

25 A Correct.

1 Q You were literally reporting back to your sister
2 about the progress of your investigation in a homicide
3 investigation, weren't you?

4 MR. LALLY: Objection.

5 THE COURT: Sustained. You can ask it
6 differently.

7 Q Were you were reporting your progress to your
8 sister about your investigation?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 MR. JACKSON: Your Honor, may we approach?

12 THE COURT: Okay.

13 (Sidebar commences:

14 THE COURT: Okay. Go ahead and make a record, Mr.
15 Lally.

16 MR. LALLY: It's argumentative.

17 MR. JACKSON: Were you reporting your progress to
18 your sister on your homicide investigation? That's
19 argumentative? That's an actually open-ended question.

20 THE COURT: It's still a bit argumentative. His
21 answer's going to be no, right? Go ahead and ask him.

22 MR. JACKSON: I know, but the jurors need to hear
23 it. Thank you.

24 THE COURT: And so just so you know, all these
25 times that you do this for the jury needs to hear it,

1 if the answer's no, there's no competent evidence of
2 this, right?

3 MR. JACKSON: I've read the evidence code, Judge.

4 THE COURT: It's not a code in Massachusetts, but,
5 yeah, I just need to be sure on all of this for closing
6 arguments. So just keep that in mind. Go ahead.

7 MR. JACKSON: Understood.

8 THE COURT: I'll give you this.
9 end of sidebar.)

10 MR. JACKSON: May I?

11 THE COURT: Yes.

12 MR. JACKSON: Thank you.

13 Q Were you reporting your progress of your
14 investigation back to your sister Courtney Proctor?

15 A No, absolutely not.

16 Q But you did say that the conversation, the formal
17 interview, went fine, it was just a quick convo,
18 correct?

19 A In response to my sister indicating Julie was
20 nervous, that's why I told her it was fine.

21 Q Trooper Proctor, Julie and Chris Albert were not
22 actually treated like witnesses in a murder
23 investigation. They were treated more like friends,
24 wouldn't you agree?

25 MR. LALLY: Objection.

1 THE COURT: Is that true?

2 THE WITNESS: Absolutely not.

3 Q We've established that you're very close with your
4 sister Courtney, correct?

5 A Correct.

6 Q You provided your sister with updates on important
7 advancements during the course of your investigation
8 into this case, did you not, periodically?

9 A I made her aware of newsworthy stuff.

10 Q That started as early as January 29, 2022; isn't
11 that right?

12 A I don't know the exact date or content.

13 Q Well, the day of the incident, you began letting
14 her know that you were involved, that you had been
15 assigned, what the status was.

16 A Yes.

17 Q The nature of the case?

18 A Correct.

19 Q The fact that it was a homicide, correct?

20 A Yes.

21 Q As a matter fact, you discussed who the players
22 were, who the people were that were involved; isn't
23 that right?

24 A I just mentioned Julie and Chris were out earlier
25 in the evening.

1 Q So you mentioned the Alberts, correct?

2 A Julie and Chris, yes.

3 Q You also mentioned the McCabes, too, didn't you,
4 at some point?

5 A Yes.

6 Q Yep.

7 MR. JACKSON: At 2668, Your Honor, that's the page
8 that I'm referring to.

9 THE COURT: Thank you.

10 Q You write, "Homicide," correct?

11 A I'm sorry. You said 2668?

12 Q Correct. If I have my page number correct?

13 THE COURT: You're on the right page, Mr. Jackson.

14 MR. JACKSON: Thank you.

15 A Okay. Go ahead, sir.

16 Q You wrote the word, "Homicide," is that right?

17 A Yes.

18 Q You were describing to your sister the nature of
19 the case that you were now assigned; is that right?

20 A Correct.

21 Q She wrote, "The Canton thing is a homicide," and
22 you wrote, "Don't say a word to anyone," correct?

23 A Correct.

24 Q And then she wrote, "Of course not," isn't that
25 right?

1 A Yes.

2 Q And then you wrote what?

3 A "At the very, very least, it's suspicious."

4 Q "At the very least, it's suspicious," correct?

5 A Correct.

6 Q So at that time, at least at the time that you
7 wrote that text on the 29th at 3:05 in the afternoon,
8 you believed that the case was suspicious, right?

9 A It was before we found significant pieces of
10 evidence.

11 Q So you believed that it was suspicious, that it
12 may involve the Alberts, right?

13 A Absolutely not.

14 Q She then writes, "This is your livelihood," didn't
15 she?

16 A She did.

17 Q Meaning, this kind of case could make or it could
18 break your career, right?

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 Q She then wrote, "I would never mess with that," is
22 that right?

23 A Yes.

1 Q Your sister, Trooper Proctor, was warning you that
2 you shouldn't be investigating a case in which close
3 friends or family members were involved?

4 MR. LALLY: Objection.

5 THE COURT: Sustained.

6 Q Did you take her text, "This is your livelihood.
7 I would never mess with that," as a warning from her
8 that you shouldn't be investigating a case that
9 involved close friends?

10 MR. LALLY: Objection.

11 THE COURT: I'll allow it.

12 A Absolutely not. The -- that was in response to,
13 "Don't say a word to anyone," and that was how I
14 interpreted, "This is your livelihood. I would never
15 mess with that."

16 Q A couple of minutes later at 3:07 on January 29,
17 you told your sister, quote, Julie and Chris were at
18 the bar with the victim and girlfriend. Got to
19 interview them; is that right?

20 A Yes.

21 Q So you were telling Courtney your sister updates
22 on what you're investigation advancements were,
23 correct?

24 A Just that part.

1 Q You're going to interview, why you're going to
2 interview them?

3 A Yes.

4 Q She wrote, "You got to be kidding me," correct?

5 A Correct.

6 Q Did you take that as, you've got to be kidding me,
7 the Alberts are involved?

8 A No, absolutely not.

9 Q Then you wrote, "It's not a big deal," correct?

10 A Correct.

11 Q And then she wrote, "I bet I know the person.
12 Sounds like it is." Meaning it is a big deal, right?

13 A Yeah, I'm not sure what she meant with those
14 messages there.

15 Q But she did write, "I bet I know the person,"
16 didn't she?

17 A She did write that, yes.

18 Q And you know she's very close with the Alberts,
19 correct?

20 A She's close with Julie and Chris.

21 Q You then wrote, "No, I meant," or you wrote "not"
22 I think you meant no. I meant that they were at the
23 bar with them, correct?

24 A Yes.

1 Q She writes, "Yeah, I got that part." And then she
2 continues on, "But I know a lot of their friends,"
3 correct?

4 A Yes.

5 Q Did you see a problem in this exchange?

6 A Nothing jumped out at me.

7 Q Your sister is literally explaining that your
8 family friends are suspects or possible suspects in a
9 murder investigation that you're in charge of, correct?

10 MR. LALLY: Objection.

11 THE COURT: Sustained.

12 Q On January 30, 2022, at 9:13 in the morning, your
13 sister texted you again, quote, Jesus Christ, the party
14 was at one of the Alberts, correct?

15 A Yes.

16 Q And you two were discussing the fact that to put
17 it in her words, Jesus Christ, these are our friends,
18 right?

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 Q How did you take her, "Jesus Christ, the party was
22 at one of the Alberts," with two exclamation points?
23 How did you take that?

24 A That's -- that's her -- the way I'm interpreting
25 my sister's text messages was that surprised and

1 shocked that this is where Mr. O'Keefe was found on the
2 front lawn of that residence.

3 Q Could it be, "Jesus Christ, we know these people?"

4 A Again, that's how I read that message.

5 Q You don't deny, Trooper Proctor, that you were
6 routinely disclosing to your sister pretty intimate
7 details of the investigation, correct?

8 A I wouldn't say intimate. I would say newsworthy
9 stuff or just a generic, nothing too specific.

10 Q Well, newsworthy, would you have gone to the news
11 at this point in the investigation, would you have gone
12 to the news and said Julie and Chris were at the bar.
13 I got to go and -- I got to go interview them?

14 MR. LALLY: Objection.

15 THE COURT: I'll allow that. Is that what you do,
16 Trooper?

17 THE WITNESS: No, I would not do that, sir.

18 Q So it's not newsworthy. These were details,
19 internal details about the investigation, weren't they?

20 A Yes.

21 Q And you were sharing them with your sister
22 Courtney Proctor, correct?

23 A And Courtney Proctor's best friend is Jillian
24 Daniels and one of her closest friends is Julie Albert,
25 right?

1 A Correct.

2 Q Then on February 1, your sister texted you that
3 she's actually meeting with Julie Albert, didn't she?

4 A Yes.

5 Q And that was before you ever interviewed Julie,
6 correct?

7 A Yes.

8 Q So it appears that Courtney was providing
9 information to Julie of some sort before you were able
10 to actually interview her; is that right?

11 MR. LALLY: Objection.

12 THE COURT: Sustained.

13 Q She was -- well, let me ask it this way. You
14 don't deny that Courtney was meeting with Julie before
15 you interviewed her, correct?

16 A Correct.

17 Q And you don't deny that you had been providing
18 information about the case with Courtney before you
19 interviewed Julie, correct?

20 A Provided information that Julie and Chris were at
21 the Waterfall and I needed to interview them, yes,
22 that's the information I shared.

23 Q And who knows what you shared verbally, not in
24 text messages, correct?

25 MR. LALLY: Objection.

1 THE COURT: Sustained.

2 Q We have text messages, Trooper Proctor. Did you
3 share other information on phone calls with Courtney?

4 A No.

5 Q So the only information, we're to believe, you
6 talked to five to six times a day, the only information
7 that you claim you shared with Courtney about the
8 details of the investigation are contained in these
9 texts which we have.

10 MR. LALLY: Objection.

11 THE COURT: I'll let you have that. Can you
12 answer that?

13 A The information that I shared with my sister
14 contained within these texts, yes.

15 Q You never discussed this case verbally over the
16 phone or in person with Courtney?

17 A On the phone, I'm sure there's been conversations
18 that things that have, you know, been newsworthy items
19 that have gone to the news. There's definitely been
20 conversations in that regard.

21 Q And then before you ever interviewed Julie, your
22 sister informed you that Julie actually wanted to get
23 you a gift for your participation on this case,
24 correct?

25 A Yes.

1 Q And tab five, let's turn to page 2672, Trooper
2 Proctor. MR. JACKSON: With the Court's permission may
3 it be published?

4 THE COURT: Yes.

5 MR. JACKSON: That page 2672.

6 Q Do you see the text from you, "What's up?"

7 A Yes.

8 Q And what's Courtney Proctor's response?

9 A "Nothing. I just saw Julie and she said when this
10 is all over, she wants to get you a thank you gift."
11 And I respond with, "Get Elizabeth one."

12 Q Hang on just a second. Let's take them one at a
13 time. You were asked about this on direct examination
14 by Mr. Lally, right?

15 A Correct.

16 Q And you looked at the jurors, paused and said, "I
17 never asked for a gift. I never received a gift.
18 Elizabeth never asked for a gift. She never received a
19 gift." Do you remember that?

20 A Correct.

21 Q You said you never asked for a gift, correct?

22 A Correct.

23 Q What's your next text?

24 A "Get Elizabeth one."

25 Q Get Elizabeth one what?

1 A Referring to a gift.

2 Q Right. So you did in fact ask for a gift, didn't
3 you?

4 A For my wife who had been home with my children for
5 the last ten nights.

6 Q From Julie Albert?

7 A Yes.

8 Q For your participation on this case?

9 A I don't know if that's -- yes.

10 Q Well, Courtney Proctor answers that question by
11 saying, "Because I guess her and Chris were friends and
12 John and she's so proud of you for leading this
13 investigation," correct?

14 A Correct.

15 Q You're aware during the course of your
16 investigation -- well, let me ask it this way. Let me
17 ask a foundational question. Do you pull phone records
18 as a matter of course in investigations of this nature?

19 A Yes.

20 Q Did you pull phone records in this case,
21 variously?

22 A The phone records of?

23 Q Of anybody - witnesses, suspects.

24 A Not witnesses.

25 Q Tangential people, whatever?

1 A We didn't pull phone records of witnesses.

2 Q The victim?

3 A The victim and Ms. Read.

4 Q During the course of your investigation, did you
5 become aware that there was 67 calls between Julie
6 Albert and your sister Courtney in the months following
7 John O'Keefe's death?

8 MR. LALLY: Objection.

9 THE COURT: I'm going to sustain the objection.

10 Q Did you become aware during the course of your
11 investigation of the level of communication between
12 Julie Albert, one of the witnesses on the case, and
13 your sister?

14 MR. LALLY: Objection.

15 THE COURT: I'm sustaining that objection. You
16 can come try and convince me otherwise if you want, Mr.
17 Jackson.

18 MR. JACKSON: I can ask it a different way, Your
19 Honor. Thank you.

20 Q Did you ever seek information about phone calls
21 that and communications that Julie Albert may or may
22 not had been having with anybody else?

23 A No.

24 Q You didn't download her phone, didn't seek her
25 phone records?

1 A No.

2 Q Did Courtney ever tell you that she had consistent
3 communications with Julie Albert or did you know that
4 otherwise?

5 MR. LALLY: Objection.

6 THE COURT: Sustained.

7 Q During the months -- let me ask it this way.
8 During the months following John O'Keefe's death, you
9 did continue to have with consistent communications
10 with Courtney, though, didn't you?

11 A Yes, I speak to my sister every day.

12 Q Trooper Proctor, were you using Courtney, your
13 sister, as an intermediary between you and Julie
14 Albert?

15 A Absolutely not.

16 Q You're well aware from the very beginning of your
17 investigation that Colin Albert was in fact at 34
18 Fairview on the night in question, right?

19 A Yes.

20 Q As a matter fact, you testified at the grand jury,
21 the state court grand jury on this case, that you knew
22 that Colin Albert was at the location, right?

23 A Yes.

24 Q Did you make any concerted efforts to keep Colin
25 Albert's name out of this investigation?

1 A No.

2 Q Why is it, Trooper Proctor, that Colin Albert's
3 name fails to appear in a single police report until
4 July 18, 2023?

5 A Colin Albert was not at the home. He left at
6 approximately 12:10 a.m. before anyone from the
7 Waterfall had arrived back there.

8 Q Let's look at -- obviously, part of the job of an
9 investigator is to be as complete and thorough as
10 possible, correct?

11 A Yes.

12 Q You don't just take someone's word for something.
13 You look for corroborating evidence, don't you?

14 A Yes.

15 Q As a matter of fact, you wouldn't take a witness's
16 word for almost anything in a reasonable investigation,
17 would you?

18 MR. LALLY: Objection.

19 THE COURT: Would you? No, he can have that.

20 A If I believe -- find that witness to be credible,
21 and have no reason to lie, then, yes, I would take
22 their word.

23 Q Would you try to support a witness's statement or
24 witnesses' with an apostrophe, S apostrophe, their
25 statements with corroborating evidence?

1 A Yeah, potentially.

2 Q Corroborating evidence might be talking to other
3 witnesses, right?

4 A Yes.

5 Q It might be looking at cell phone data, correct?

6 A Correct.

7 Q It might be looking at geolocation data, correct?

8 A Yes.

9 Q You're trying to find out where someone is. You
10 might pull information from their phone concerning
11 geolocation data, right?

12 A Yes.

13 Q You might pull cell tower information, right?

14 A Yeah, if there's a need for it.

15 Q There's a myriad of ways that you can find out
16 whether someone is telling the truth about where they
17 were and when they were there, right?

18 A Right.

19 Q Let's take a look at your handwritten notes from
20 your interview with Julianna Nagle on October 25, 2022.
21 This should be tab seven, Trooper Proctor.

22 THE COURT: What is it for identification?

23 MR. JACKSON: My mistake. I thought was in the
24 tab. It's not. This is a three-page document. I'll
25 just refresh his recollection with this.

1 THE COURT: Okay. Show Mr. Lally and then go
2 ahead.

3 MR. JACKSON: Of course.

4 Q Let me ask a foundational question, Trooper
5 Proctor. Do you remember exactly what's in your notes
6 from a conversation that you had on October 5, 2022?

7 A I don't know.

8 Q You think it would refresh your recollection to
9 take a look at your handwritten notes?

10 A Yes, sir.

11 Q Thank you. Take a look at that and first, let me
12 just ask if that refreshes your recollection?

13 A It does, sir.

14 Q Are those your notes, your handwritten notes, at
15 least partially from this investigation?

16 A Yes.

17 Q Does that reflect your handwritten notes based on
18 a conversation that you had with Julianna Nagle on or
19 about October 5, 2022?

20 MR. JACKSON: May I, Your Honor?

21 THE COURT: Yes.

22 Q Does this appear to be an accurate representation
23 or an accurate copy of your notes from your interview
24 with Julianna Nagle?

25 A Yes.

1 MR. JACKSON: Your Honor, with the Court's
2 permission I changed my mind. I would like to have
3 this marked as next.

4 THE COURT: Introduced into evidence?

5 MR. JACKSON: Correct, Your Honor.

6 THE COURT: Is there an objection?

7 MR. LALLY: Yes, Your Honor.

8 THE COURT: Okay. The objection is sustained.

9 Q Is it true that in your handwritten notes you list
10 the following individuals based on Julianna Nagle's
11 conversation with you as being at 34 Fairview: Brian,
12 Julianna, Mary Kent, Emily Fabiano, Courtney Alba,
13 Colin Albert, and Sarah Levinson, correct?

14 A Correct.

15 Q You then drafted a report memorializing your
16 conversation with Julianna Nagle, correct?

17 A Yes.

18 Q And that report is a formal memorialization of
19 your interview based on your investigation, correct?

20 A Yes, a summary of the conversation of the
21 interview.

22 Q And that report is the thing that's turned over to
23 the Commonwealth, correct?

24 A Yes.

1 Q And the report is the thing that's entered into
2 discovery and provided to defense?

3 A Correct.

4 Q And isn't it true that in that report you list the
5 individuals that were at 34 Fairview as Brian, Mary
6 Kent, Emily Fabiano, Sarah Levinson; is that correct?

7 A Yes.

8 Q What's the one name that was left out of your
9 report on that list?

10 MR. LALLY: Objection.

11 THE COURT: I'll allow it. Was there one name
12 left out? Break that down, Mr. Jackson.

13 MR. JACKSON: Sure.

14 Q Isn't it true that in your report you excluded the
15 one name, Colin Albert, from the list of individuals
16 that were in your notes?

17 A Yes, because he arrived later in the evening. The
18 other females were there from the start.

19 Q At the time that you wrote your report, your
20 formal report, this one, you did not believe that your
21 handwritten notes were also going to be disclosed, did
22 you?

23 A I knew that was a possibility.

1 Q When you finally did get around to interviewing
2 Colin Albert, you personally conducted that interview,
3 did you not?

4 A Yes, along with Trooper Zach Clark.

5 Q Colin Albert told you --

6 THE COURT REPORTER: One at a time.

7 MR. JACKSON: I'm sorry.

8 THE COURT: Finish your answer, Trooper.

9 MR. JACKSON: Please, Your Honor.

10 A Yes, along with Trooper Zach Clark of my office.

11 Q Colin Albert told you that he was picked up by
12 Ellie McCabe from his uncle's house as 12:10 a.m.,
13 correct?

14 A Correct.

15 Q Ally McCabe also told you that she picked up Colin
16 Albert at 34 Fairview at 12:10 a.m., and then dropped
17 him off at his house, correct?

18 A Correct.

19 Q And then she indicated that she went straight home
20 after that, right?

21 A Yes.

22 Q Did you conduct any further investigation to
23 determine whether Colin Albert and Ally McCabe were
24 actually telling the truth about that time?

25 A We did not.

1 Q But you took them at their word, correct?

2 A Yes.

3 Q Trooper Proctor, you realize you had a forensic --
4 image at the time you had a forensic image of Jennifer
5 McCabe's cell phone in your possession, right?

6 A Correct.

7 Q You're also aware that she has a Life 360 app on
8 her phone that tracks the location of Ally McCabe,
9 correct?

10 A It was not aware the app tracked her daughter. I
11 knew of the Life 360 app, but I wasn't aware of the
12 capability of tracking her daughter.

13 Q Did you bother to look at Jennifer McCabe's Life
14 360 app to determine whether Colin Albert and Ally
15 McCabe were telling the truth about the time that they
16 supposedly left 34 Fairview?

17 MR. LALLY: Objection.

18 THE COURT: Did you do that?

19 THE WITNESS: I did not.

20 Q Let me take a look at tab eight. Do you recall
21 looking at all at a Life360 app or its data from a
22 Cellebrite report?

23 MR. LALLY: Objection.

24 THE COURT: Sustained.

1 Q Did you or did you not look at any data from
2 Life360 from Jennifer McCabe's phone?

3 MR. LALLY: Objection.

4 THE COURT: All right. So this is a good time to
5 take the morning recess and I'll see counsel at
6 sidebar. Fifteen, twenty minutes, jurors.

7 (Jury out.)

8 (Court in recess.)

9
10
11
12 (Court in session.)

13 (Defendant is present with counsel.)

14 (Jury in.)

15 THE COURT: All right. Mr. Jackson, whenever
16 you're ready.

17 MR. JACKSON: Thank you, Your Honor.

18 Q Trooper Proctor, did you include in your
19 investigative file any Cellebrite report related to the
20 Life 360 app that was on Ms. McCabe's phone that you
21 earlier testified to?

22 A Trooper Guarino who is our cell phone expert kind
23 of handled that. So I'm not positive if that report --
24 if he generated that report.

1 Q Okay. So it goes without saying -- I shouldn't say
2 that because if it goes without saying, I shouldn't say
3 it.

4 Did you review a Life 360 report in an effort to
5 determine whether or not Colin and Ally were telling
6 the truth?

7 A No.

8 Q You grew in Canton, did you not?

9 A Yes.

10 Q I don't want an address but just generally as the
11 crow flies, how close would you say you live from the
12 Albert residence -- the former Albert residence at 34
13 Canton -- 34 Fairview in Canton?

14 A Maybe two or three miles.

15 Q How about from the McCabe residence? And again,
16 don't give me any addresses.

17 A May be a mile.

18 Q You know, given the fact that you grew up in
19 Canton, that it's about a mile walk through some woods
20 to get to Canton High School from 34 Fairview, correct?

21 A Yes.

22 Q Did you have any Canton police officers canvass
23 the area around the high school or filling stations
24 around the high school, gas stations around the high

1 school for video surveillance video -- I'm sorry --
2 video surveillance footage?

3 A No.

4 Q Did you have any conversations with anybody from
5 Canton about video surveillance concerning the high
6 school and/or surrounding gas stations?

7 A Yes.

8 Q Who was that?

9 A It was Officer Galanas.

10 Q Can you turn to tab nine, please?

11 First let me ask you if you recognize these texts
12 with any individual?

13 A Yes, I do.

14 Q How do you recognize those texts?

15 A That was a text communication between Officer
16 Galanas and I -- myself.

17 Q Take a look at those text communications. Do you
18 see the inclusive dates of those -- on the face sheet
19 of the document?

20 A Yes, I do.

21 Q What are those inclusive dates?

22 A First message sent, date and time, February 18,
23 2022, 1:02 p.m. Last message sent, date and time,
24 February 18, 2:05 p.m.

25 Q These are texts on a single day, correct?

1 A That's correct.

2 Q If you would look at page 2623.

3 MR. JACKSON: Your Honor, may I publish?

4 THE COURT: Is there any objection?

5 MR. LALLY: Same one, but ...

6 THE COURT: I'll let you publish it.

7 MR. JACKSON: Thank you, Your Honor.

8 Q In this text, you're asking a member of the Canton
9 Police Department to look around the surrounding area
10 of 34 Fairview Road for camera equipment, correct?

11 A I was asking if they had any knowledge of cameras
12 in the area.

13 Q Okay. And of course, that was to an officer who
14 was employed by which department?

15 A Canton Police Department.

16 Q Which you knew at the time that you asked for
17 assistance in February of 2022, had been recused from
18 the case, correct?

19 A Correct.

20 Q And should have no investigative involvement in
21 the case, correct?

22 A I did not request for them to pull video. I just
23 simply asked were there some cameras in the area.

24 Q Which is an assistance for you in your
25 investigation, correct?

1 A They have more knowledge in the area as far as
2 useful cameras, so, yes, I reached out regarding
3 cameras in the area.

4 Q For assistance from Canton PD officers, correct?

5 A Yes.

6 Q Whom you knew to be recused, correct?

7 A Yes.

8 Q You specifically asked Officer Galanas whether,
9 quote, the high school had cameras facing the street,
10 correct?

11 A Correct.

12 Q And Officer Galanas writes back, "The Canton
13 Mutual gas station has unreal cameras. That's how I
14 picked up that kid and it had him walking into the
15 woods by the New Street Larkin Court," correct?

16 A Correct.

17 Q You responded, "Good to know. I'll add that to
18 the list," correct?

19 A Yes.

20 Q Did any of the reports you turned over in
21 discovery ever mention the Canton Mutual gas station
22 cameras or the cameras from Canton High School?

23 A No, because we did not retrieve any video from
24 locations.

1 Q And you didn't answer in your report that you even
2 sought the footage from those locations, correct?

3 A I don't believe so.

4 Q You did say that you would add it to the, quote,
5 list; is that right?

6 A Yes.

7 Q And you're aware obviously as responsible -- as
8 one of your responsibilities to maintain and keep your
9 handwritten notes from all communications, all
10 investigative activities involved in the case, correct?

11 A Yes.

12 Q And you have no notes on this conversation,
13 correct?

14 A Correct.

15 Q As the lead investigator, Trooper Proctor, you are
16 responsible ultimately for deciding which witnesses
17 will be interviewed and which witnesses will not be
18 interviewed, correct?

19 A Like I mentioned yesterday or Monday, it's a
20 collaborative effort within the office. So it's we
21 bounce ideas off each other as far as who's -- what
22 witnesses need to be interviewed, et cetera, so it's
23 more a group effort and a group decision.

24 Q But as the case officer you make some of the final
25 decisions on who's going to be investigated, who's

1 going to be interviewed, things of that nature,
2 correct?

3 A I facilitate certain areas, yes.

4 Q I want to talk about some of the witnesses you
5 interviewed in the days and weeks immediately following
6 Mr. O'Keefe's death. You interviewed Brian Albert,
7 correct?

8 A Correct.

9 Q Nicole Albert, yes?

10 A Yes.

11 Q Chris Albert?

12 A Yes.

13 Q Julie Albert?

14 A Yes.

15 Q Jennifer McCabe?

16 A Yes.

17 Q Her husband Matt McCabe?

18 A Correct.

19 Q All those individuals are related in one way or
20 another either through marriage or otherwise to each
21 other, correct?

22 A Yes, that's my understanding.

23 Q And you also interviewed Brian Higgins; is that
24 right?

25 A Yes.

1 Q I want to talk for a second about the individuals
2 who you did not immediately choose to interview.

3 Julie Nagle wasn't interviewed until October 2022,
4 correct?

5 A Correct.

6 Q That's seven months after the incident, right?

7 A Correct.

8 Q Sarah Levinson was not interviewed until October
9 of 2022 also seven months later, correct?

10 A Correct.

11 Q Caitlin Albert was interviewed July 6, 2023,
12 correct?

13 A Yes.

14 Q That's 16 months after the incident; is that
15 right?

16 A Correct.

17 Q Brian Albert, Junior, July 6, 2023, right?

18 A Yes, sir.

19 Q Holly McCabe, August of 2023, correct?

20 A Yes, sir.

21 Q That's 18 months after the incident, correct?

22 A Correct.

23 Q Heather Maxin, she was not interviewed until
24 September 21, 2023, 17 months later, correct?

25 A Correct.

1 Q That's actually my math is off. That's about 18
2 months later; is that right?

3 A Correct.

4 Q Richard Dantano, September 2, 2023; is that right?

5 A Yes.

6 Q So you waited more than 18 months to interview him
7 as well; is that right?

8 A Yes.

9 Q And then Brian Loughran, the snowplow driver,
10 August 2023, 17 months after the incident, correct?

11 A Correct.

12 Q I want to talk for a second about this last
13 individual Brian Loughran. He also goes by the name
14 Lucky; is that right?

15 A Yes.

16 Q Lucky Loughran. You testified under oath on April
17 21, 2022, in a state court grand jury proceeding that
18 no snowplow traveled down Fairview Road on January 29,
19 correct? A Correct.

20 Q Why did you say that, Trooper Proctor?

21 A That was based off interviews with Mr. Trotter
22 that the plows weren't out until they met up at 2:30,
23 and then it was my understanding they were focusing on
24 the main roadways.

1 Q You're aware that Michael Trotter testified in
2 this case?

3 A Okay.

4 Q Were you aware or not?

5 A No.

6 Q You did in fact interview Michael Trotter, did you
7 not?

8 A Yes.

9 Q And isn't it true that Michael Trotter told you
10 that in fact Brian Loughran was plowing 34 Fairview
11 that morning?

12 MR. LALLY: Objection.

13 THE COURT: Is that what he told you?

14 THE WITNESS: I don't recall that statement from
15 him.

16 Q Michael Trotter testified that that's what he told
17 you. Do you have any quarrel with that?

18 MR. LALLY: Objection.

19 THE COURT: That's sustained.

20 Q In reality, Trooper Proctor, you did not want to
21 speak to anybody in the weeks and months following this
22 incident who didn't fit your narrative, correct?

23 MR. LALLY: Objection.

24 THE COURT: I'll allow. It is that true?

25 A That's simply not true. Absolutely not.

1 Q Certainly, you didn't want to talk to anybody who
2 could say that there was no body on the lawn at 2:30 in
3 the morning; is that right?

4 A That's not true.

5 Q Are you aware that Lucky Loughran in fact did
6 report that there was no body on the lawn at 2:30?

7 MR. LALLY: Objection, Your Honor.

8 THE COURT: So the objection is sustained. I'm
9 going to strike that.

10 Q Did you include anything in your investigative
11 report throughout the entire time you've been in charge
12 of this investigation about Lucky Loughran and his
13 observations?

14 A Not until Sergeant Bukhenik and I interviewed him.

15 Q And that was when?

16 A I can't recall the exact date.

17 Q And that was after the defense brought him to your
18 attention, correct?

19 MR. LALLY: Objection.

20 THE COURT: I'll allow it.

21 Q Is that true?

22 A Correct.

23 Q Are you still the case agent in charge of this
24 case?

25 A Yes.

1 Q As the lead investigator and the case agent,
2 you're aware that it's also your responsibility and
3 your obligation to investigate all potential
4 individuals, right, all potential suspects?

5 A Yes.

6 Q You're obligated to investigate anybody who would
7 have a motive, a means, and an opportunity to commit
8 the crime or the offense, correct?

9 A Correct.

10 Q Motive includes anything from financial gain to it
11 could just be revenge, right?

12 A Yes.

13 Q It could be a lover's quarrel, correct?

14 A Yes.

15 Q Or it could be someone who's interested in someone
16 romantically, correct?

17 A It could be an argument inside of a vehicle.

18 THE COURT: I'm sorry I didn't -- I didn't hear
19 that. Could you -- what was your answer?

20 MR. JACKSON: I didn't hear him either.

21 THE WITNESS: I said or it could be an argument
22 contained inside a vehicle as well.

23 Q Ah, yeah, which is the conclusion you jumped to 17
24 hours into your investigation, right?

25 MR. LALLY: Objection.

1 THE COURT: Overruled.

2 Q Is that right?

3 A It's something -- evidence we have contained
4 within cell phones reiterates that fact.

5 Q When you decided that you were going to make sure
6 that the girl, I think that's what you called her, the
7 girl was going to have serious charges brought against
8 her 17 hours into your investigation, you didn't have
9 any evidence whatsoever that there was an argument
10 inside the vehicle, did you?

11 A To go towards intent, no, but as far as the
12 physical evidence goes, we had compelling evidence
13 indicating Ms. Read struck with O'Keefe with her
14 vehicle.

15 Q So you just didn't --

16 THE COURT: Okay. Mr. Jackson, I just have to --
17 keep your voice up, Trooper Proctor, okay?

18 THE WITNESS: Yes, Your Honor.

19 Q You just did this piecemeal. So when you decided
20 that the girl, Ms. Read, was going to get serious
21 charges against her, you didn't have any indication of
22 any intent. You just decided, oh, okay, I'm just going
23 to go with the physical evidence today. I'll figure
24 intent later. I'll figure out motive later, right?

25 A Yes.

1 Q Motive, means, and opportunity. We talked a
2 little bit about motive. What about means? The
3 physical ability to commit the crime, right? That's
4 obviously important?

5 A Yes.

6 Q And the opportunity. It's a physical proximity
7 physical to the incident, correct?

8 A Correct.

9 Q Or the physical ability to commit the crime,
10 correct?

11 A Correct.

12 Q Did you investigate all potential suspects who
13 would have the motive, means, and opportunity to kill
14 John O'Keefe?

15 A Yes, and that motive, means factored in with the
16 physical evidence pointed directly at Ms. Read. No one
17 else had any motive. Mr. O'Keefe never went inside
18 Fairview Road.

19 Q And you got all that, of course, from the Alberts
20 and McCabes, right?

21 A Yes.

22 MR. LALLY: Objection.

23 THE COURT: I'll allow it.

24 Q Let's talk about Brian Higgins for a second. Do
25 you know that name?

1 A I do, sir.

2 Q You personally interviewed Mr. Higgins, correct?

3 A Sergeant Bukhenik and I did, yes.

4 Q You keep adding other people into the interviews.
5 I'm asking what you did, not what you and someone else
6 did. Did you personally interview Brian Higgins?

7 MR. LALLY: Objection.

8 THE COURT: I'll allow it.

9 A Yes, I did.

10 Q He's a fellow law enforcement officer and you knew
11 that, right?

12 A Yes.

13 Q He was a colleague of yours, correct?

14 A He worked in a different agency, yes.

15 Q You waited until February 10, to conduct a
16 prescheduled interview with Mr. Higgins, didn't you?

17 A Yes.

18 Q And you interviewed him in the presence of his
19 attorney, correct?

20 A Correct.

21 Q He told you that he was engaged in a flirtatious
22 relationship with Ms. Read?

23 A He did.

24 Q As a matter of fact, he told you that he was
25 engaged in a flirtatious relationship with Ms. Read

1 over text messages, but at least on one occasion that
2 resulted in a kiss, correct?

3 A Yes.

4 Q And then he also told you that he had taken the
5 liberty to extract certain conversations from his own
6 cell phone, right?

7 A Correct.

8 Q And he brought you a hard copy of those text
9 messages, right?

10 A He did.

11 Q And you knew that those text messages were
12 messages that he curated to give to you, right?

13 A Yes.

14 Q He's the one that made the determination of what
15 was important, what was not important to give to you,
16 his interviewer, right?

17 MR. LALLY: Objection.

18 THE COURT: Was that your understanding, Trooper?

19 A It was my understanding Mr. Higgins was being very
20 forthcoming by providing those messages. It's not
21 uncommon for witnesses to take screenshots or send us
22 emails or send us text messages. So he just had a
23 different means of producing text messages.

24 Q Well, you were asked -- actually asked that
25 question in a different proceeding under different

1 questioning, and you were asked whether or not in your
2 career as a law enforcement officer has any person or
3 witness ever brought a self-extraction of text messages
4 to an in-person interview, correct?

5 MR. LALLY: Objection.

6 THE COURT: I'll allow it.

7 A Correct, most --

8 Q And your answer was --

9 A -- civilian --

10 Q And your answer was, Trooper Proctor, you had
11 never experienced that in the history of your career,
12 correct?

13 A Correct.

14 Q So you became aware of pretty early on that Mr.
15 Higgins at least had a motive to want to visit harm on
16 John O'Keefe, correct?

17 MR. LALLY: Objection.

18 THE COURT: I'll allow it.

19 A No, absolutely not.

20 Q Well, you knew he had this flirtatious
21 relationship with Karen Read; is that right?

22 A Yes.

23 Q You became aware that he ignored -- you saw the
24 text messages. You became aware that Karen Read
25 actually ignored text messages from Mr. Higgins while

1 at the Waterfall Bar and Grill with John O'Keefe,
2 correct?

3 MR. LALLY: Objection.

4 THE COURT: I'll allow it.

5 A Yes.

6 Q And you're aware that at 12:20 a.m., Brian Higgins
7 sent a text message to John O'Keefe coaxing him to 34
8 Fairview, correct?

9 MR. LALLY: Objection.

10 THE COURT: I'll see you at sidebar on this.

11 (Sidebar commences:

12 THE COURT: What's your objection?

13 MR. LALLY: It's argumentative, Your Honor. As
14 far as the questions that are being asked, I don't have
15 any objection to him asking him the factual questions
16 of what he was aware of, but the characterizations,
17 that's his closing argument and that's fine for his
18 closing argument, but that's not fine for cross-
19 examination. There's no evidence in the content of the
20 text communication he was coaxing John O'Keefe there,
21 let alone for some nefarious purpose, or that the
22 defendant was ignoring his texts. As far as were there
23 texts sent and did she respond, that's fine.

1 THE COURT: So sometimes one word can mess up your
2 whole sentence. I'll (indiscernible) the objection.
3 Just --

4 MR. JACKSON: Your Honor, it's a reasonable
5 interpretation of that text message that he's coaxing
6 Brian Higgins to the location. That is not argument.
7 This is cross-examination. I should be given some
8 liberties. If he says, no, I didn't see it as coaxing,
9 then the jurors can weigh and balance that.

10 THE COURT: But when there's an objection, if
11 there's a part that's objectionable that I think should
12 be sustained, I have to knock out the whole question,
13 and you don't want that.

14 MR. JACKSON: No, I don't.

15 THE COURT: And I don't know how many more times I
16 have to say, "Ask it differently, Mr. Jackson." It's
17 on those occasions. So just knock out the language
18 that you know shouldn't be in there.
19 end of sidebar.)

20 MR. JACKSON: May I inquire?

21 THE COURT: Yes.

22 MR. JACKSON: Thank you.

23 Q You're aware that at 2:20 a.m., Brian Higgins sent
24 a text message to John O'Keefe prompting him to go to
25 34 Fairview, correct?

1 MR. LALLY: Objection.

2 THE COURT: I'll allow that one. Go ahead.

3 A I don't recall that text.

4 Q Do you recall a text from Brian Higgins to John
5 O'Keefe after they left Waterfall, "Where you at?"

6 A I don't recall that one either.

7 Q You also recognized -- recognize that Brian
8 Higgins certainly had the means to commit the crime,
9 correct?

10 A No, I don't.

11 Q He's a big guy. He certainly had the physical
12 ability to get into a physical altercation with John
13 O'Keefe, correct?

14 MR. LALLY: Objection.

15 THE COURT: I'll allow that.

16 A Just because he's a big guy doesn't mean doesn't
17 have the means or the -- I'm sorry the motive to hurt
18 Mr. O'Keefe --

19 Q I wasn't asking --

20 A They were friends.

21 Q I wasn't asking about motive. I'm not asking
22 about means. Could he do it? Could he throw a punch?
23 Knock a guy down? Knock a guy out?

24 A I can't speak to his fighting ability, sir.

25 Q Well, you've met him, right?

1 A In that one interview, yes.

2 Q Yeah, he's huge, would you agree?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 Q He's a big dude, right?

6 A Yeah, he's a big guy.

7 Q Bigger than me, right?

8 A Yeah.

9 Q Bigger than you?

10 A Yep.

11 Q You knew that he was former military?

12 A I did, yes.

13 Q And he's a trained ATF agent, federal agent,
14 right?

15 A Yes.

16 Q And you were in possession of video surveillance
17 from the Waterfall Bar and Grill, correct?

18 A Yes.

19 Q And literally in the minutes before John O'Keefe's
20 death, you saw video surveillance of Brian Higgins and
21 Brian Albert taking fighting stances with one another,
22 correct?

23 A I interpreted that as horsing around.

24 Q I didn't ask you how you interpreted it, Trooper
25 Proctor. I asked you if you saw it.

1 MR. LALLY: Objection.

2 THE COURT: Sustained.

3 Q Did you see it or not?

4 A I did.

5 Q And what you saw was these guys taking fighting
6 stances, correct?

7 MR. LALLY: Objection.

8 THE COURT: Is that what you saw?

9 THE WITNESS: Playful fighting stances.

10 Q But you waited until February 10, to interview
11 him, correct?

12 A Yes.

13 Q And you decided not to image his phone; is that
14 right? ACorrect.

15 Q You didn't ask for consent to search his phone or
16 to take his phone, correct?

17 A No.

18 Q You didn't seek a search warrant to get his phone;
19 is that right?

20 A No, sir.

21 Q Did you know that on January 29, at 2:22 a.m.
22 there was a call between him and Brian Albert that
23 morning?

24 A I was not aware of that.

1 Q It might've been important to your investigation,
2 don't you think?

3 MR. LALLY: Objection.

4 THE COURT: I'll allow it.

5 THE WITNESS: It depends what that -- I don't know
6 what the call was about.

7 Q I'm sorry, finish that. Depends on what?

8 A I don't know what the call was about. I don't
9 know if they actually connected and communicated or
10 what the length of the call was, so.

11 Q Right. And you never asked, did you?

12 A I was unaware that the call took place.

13 Q And you were unaware that call took place because
14 you didn't get his phone, Trooper Proctor, right?

15 A Typically don't get witnesses phones, sir.

16 Q You were unaware of that call at that time because
17 you didn't seek his phone, correct?

18 MR. LALLY: Objection.

19 THE COURT: Overruled.

20 A Correct.

21 Q Right. The medical examiner notified you on
22 February -- I'm sorry -- on April 28, 2022, that the
23 manner of death, in her words, could not be determined;
24 is that right?

25 A Yes.

1 Q She would not rule, at least in terms of the
2 manner of death, would not rule this a homicide; is
3 that right?

4 A That's correct.

5 Q And you agree that that's obviously a pretty
6 significant finding?

7 MR. LALLY: Objection.

8 THE COURT: I'll allow it.

9 A Her finding doesn't alter how we conduct our
10 investigation. Whether if it's undetermined or ruled a
11 homicide, we're still going to continue to investigate
12 regardless of her determination.

13 Q You obviously were not pleased with that
14 determination -- you were not pleased with that
15 determination, right?

16 A It didn't matter one way or the other because,
17 like I said, we continue on with the investigation.

18 Q On April 28, that same day, you received a text
19 message from Trooper DiCicco, correct?

20 A Yes.

21 Q You can turn to tab 11, please.

22 THE COURT: What's the ID number?

23 MR. JACKSON: This is 2618. I'm sorry tab 11 is
24 G-G-G. Triple G as in golf.

25 May I, Your Honor?

1 THE COURT: Yes.

2 Q Do you have that in front of you, Trooper Proctor?

3 A I do, sir.

4 Q If you could turn to page 2618. Do you see a text
5 message received from Trooper DiCicco with a photograph
6 of the autopsy report?

7 A Yes.

8 Q And that autopsy report indicates undetermined; is
9 that right?

10 A For manner, yes.

11 Q In response, you wrote a text message to DiCicco,
12 correct?

13 A I did.

14 Q What was your response?

15 A Of course it's undetermined.

16 Q And then what else did you write?

17 A She was a whack job.

18 Q Of course it's undetermined. She's a whack job,
19 right? Those are your two responses, correct?

20 A Yes.

21 Q You were talking about Dr. Scordi-Bello the female
22 medical examiner who came to the determination that
23 this was undetermined in terms of the manner of death,
24 correct?

1 A I'm not sure who I'm referencing as far as she was
2 a whack job. But the, "Of course it's undetermined,"
3 is a sarcastic response from me.

4 MR. JACKSON: May I have a moment, Your Honor?

5 THE COURT: Sure.

6 Q The reason you referred to Dr. Scordi-Bello as a
7 whack job is because the cut and dry case that you had
8 hoped for wasn't really going your way, right?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 Q When you referred to she's a whack job, were you
12 referring to Dr. Scordi-Bello?

13 A I don't recall.

14 Q Were you displeased with the undetermined finding
15 instead of a homicide finding because that was an
16 obstacle in your investigation?

17 MR. LALLY: Objection.

18 THE COURT: You can break that down.

19 Q Were you displeased about the undetermined
20 finding?

21 A No.

22 Q Would you have rather had a determined finding
23 that it was a homicide?

1 A At the end of the day, it doesn't matter. It's my
2 office. We still investigate the same exact way if
3 it's ruled determined, undetermined, or homicide.

4 Q Well, then why would you say, "Of course it's
5 undetermined. She's a whack job," sarcastically?

6 A A sarcastic remark I made to Trooper DiCicco.

7 Q Right. Which sort of suggests displeasure rather
8 than the reverse, correct?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 Q You'd agree that it's extremely unusual for the
12 manner of death to be determined -- sorry -- to be
13 undetermined in a homicide investigation you worked on,
14 correct?

15 MR. LALLY: Objection.

16 THE COURT: Sustained.

17 Q How many murder cases in the history of your
18 career have you worked on in which the medical examiner
19 made the determination that the manner death could not
20 be determined?

21 MR. LALLY: Objection.

22 THE COURT: I'm going to allow that.

23 A I wouldn't feel comfortable putting a number on
24 it. It's not a lot. I couldn't ballpark it for you,
25 but I know it's not a lot.

1 Q Trooper Proctor, you were asked this exact
2 question in February of 2024 at the -- at another
3 proceeding.

4 A Mm-hmm.

5 Q And you indicated that you had never seen it in
6 your entire career, correct?

7 A I'm trying to -- yeah, I'm trying to learn.

8 Q Well, you were asked a question so first, what do
9 you mean by of course it's undetermined, and your
10 answer was, "I said it at the time. It was kind of
11 like not, like, not figuratively of course. It's an of
12 course, like, I had never really seen that before in a
13 homicide." Correct?

14 A Yes.

15 Q Your statement in February of 2024 under oath was
16 you literally had never seen that in any homicide
17 you've ever worked, right?

18 A Yes.

19 Q After she reached that conclusion, you discuss
20 this with one of your colleagues about how you tried to
21 put pressure on her to change her or alter her opinion,
22 correct? MR. LALLY: Objection.

23 THE COURT: I'll allow it.

24 Q Is that right?

25 THE COURT: Is that what you did?

1 A Pressure, absolutely not.

2 Q Let's turn to tab 12.

3 THE COURT: What's this for identification?

4 MR. JACKSON: This one -- I'm just checking. This
5 is H as in hotel.

6 Your Honor, for this one, may I publish?

7 THE COURT: So I've got them mismarked. What's
8 the bottom -- what's the Bates stamp number?

9 MR. JACKSON: Sure. It's 2632.

10 THE COURT: Why don't you come to sidebar for a
11 minute, please.

12 MR. JACKSON: I'm sorry. The face page is 2628.
13 Maybe that helps.

14 THE COURT: Okay.

15 MR. JACKSON: Got it. Within that packet, and
16 we'll turn to 2632.

17 THE COURT: Okay. Yes, go ahead.

18 MR. JACKSON: Thank you.

19 Q For -- to begin with, Trooper Proctor, do you
20 recognize the face page of that series of text messages
21 in tab 12?

22 A Yes.

23 Q Is that the text messages between you and Trooper
24 DiCicco, one of your colleagues?

25 A It is, yes.

1 Q Turn to page 2632 if you wouldn't mind. Tell me
2 when you're ready.

3 A Go ahead, sir.

4 Q Trooper DiCicco texted you, "Rookie move not going
5 into a meeting with the M.E. and getting that homicide
6 determination," correct?

7 A Yes.

8 Q How did you interpret that, "Rookie move not
9 getting that homicide determination?"

10 A Knowing Trooper DiCicco, it's him busting my chops
11 and joking with me.

12 Q Because you see it as your job, you and Trooper
13 DiCicco, to go in and get the homicide determination.
14 That's your job, right?

15 A Not at all, sir.

16 Q You're not looking so much for her opinion as
17 looking to give her your opinion, right?

18 A Absolutely not.

19 Q You responded, "Yuriy and I," whose Yuriy?

20 A Sergeant Bukhenik.

21 Q "Yuriy and I have two conference calls with her.
22 Sent her numerous photos, et cetera. We laid out the
23 entire case for her." That was your response, correct?

24 A Yes.

1 Q You were explaining how much effort you went to
2 try to get her to change her opinion to a homicide,
3 right?

4 MR. LALLY: Objection.

5 THE COURT: Overruled.

6 A No, not at all.

7 Q DiCicco then responds, "Not good enough. Should
8 have had me and Jeff do it," right?

9 A Yes, that was his response.

10 Q Busting your chops that you didn't meet the
11 standard of getting her to change her mind to make it a
12 homicide, right? That's what he was doing -- that's
13 what he was busting your chops about.

14 Q We would never try to change the mind of a medical
15 examiner. The doctor who conducts the autopsy often
16 has questions. They want to know the facts, kind of
17 what had transpired leading up to a victim's death. It
18 happens not only in homicides, but the unattended
19 deaths we also attend to. You know, suicide and
20 overdose. So it's common to have these kinds of
21 conversations with doctors.

22 Q Right. But in response to getting the information
23 that she made the determination and held onto it, that
24 this was undetermined, your answer was, "Of course it's
25 undetermined. She was just a whack job," right?

1 A It was sarcasm.

2 Q Ultimately, did the doctor change her opinion?

3 A No.

4 Q But the determination of the medical examiner,
5 that didn't matter to you, right, because you had
6 already decided you were going to charge Ms. Read with
7 murder anyway, weren't you?

8 MR. LALLY: Objection.

9 THE COURT: I'll allow it.

10 A Yeah, the determination did not matter as we
11 continued on with the investigation.

12 Q Notwithstanding the medical findings in the case,
13 correct, that it was not determined to be a homicide,
14 right?

15 A Considering the manner, but ...

16 Q And that's because even though in the words of the
17 prior group chat that this whole thing stinks, you were
18 going to make it cut and dry by putting it on the girl,
19 putting serious charges on the girl, notwithstanding
20 what the medical examiner said, right?

21 MR. LALLY: Objection.

22 THE COURT: Sustained.

23 Q You were actually asked this question whether or
24 not it would have an impact on your decision,
25 notwithstanding what the medical examiner's decision

1 was, correct, your decision to charge her; is that
2 right?

3 A Yes.

4 Q On February 1, 2024, you were asked, "So what
5 you're telling this grand jury today and you expect
6 this grand jury to believe, that you didn't care
7 whether the medical examiner came back with a homicide
8 determination? It doesn't matter to you?" And your
9 answer, quote, no, because either way, Ms. Read was
10 going to be charged, right?

11 A Correct.

12 Q That's how you make a case cut and dry, isn't it?

13 MR. LALLY: Objection.

14 THE COURT: Sustained.

15 Q In other words, Trooper Proctor, to hell with the
16 medical evidence, Karen Read was going to be charged
17 because that's what you had decided to do, correct?

18 MR. LALLY: Objection.

19 THE COURT: Sustained.

20 Q I'm going to change gears for a second and ask you
21 about some electronic data specifically as it pertains
22 to Jennifer McCabe.

23 You're aware that Jennifer McCabe deleted texts
24 and calls from her phone before she turned it over to
25 you?

1 MR. LALLY: Objection.

2 THE COURT: I'll allow that. Are you aware of
3 that?

4 THE WITNESS: I'm not aware of that.

5 Q Are you aware that there were text and calls
6 missing from her phone before having that phone turned
7 over to you?

8 A I'm not aware of that.

9 Q Did you look at the extraction report, the
10 Cellebrite extraction report from her phone?

11 A I have, yes.

12 Q And you didn't see the columns marked deleted,
13 deleted, deleted, deleted?

14 A Not that area, no.

15 Q I'm sorry, I didn't hear you.

16 A Not that area.

17 Q Not that area. Meaning?

18 A No.

19 Q What does that mean. I don't know what you mean
20 by not that area.

21 A I went through her -- the Cellebrite report but
22 clearly I didn't review that tab.

23 Q So as you sit here, you're unaware of whether or
24 not multiple texts and multiple phone calls were

1 deleted from her phone that you have in your
2 possession?

3 MR. LALLY: Objection.

4 THE COURT: I'll allow it.

5 A Yeah, I'm not aware right now, sir.

6 Q As the case agent, as the case officer, do you
7 believe it might be important to find out whether or
8 not that phone appeared to have been manipulated or
9 altered in some way before it was turned over, wouldn't
10 that be something that you would normally do?

11 A That would be important.

12 Q But you didn't do it with Jen McCabe's phone?

13 A I didn't personally handle that, no.

14 Q Did you ever seize Nicole Albert's phone?

15 A No.

16 Q Did you ever seize Brian Albert's phone?

17 A Nope.

18 Q Colin Albert's?

19 A No.

20 Q Chris Albert's?

21 A No.

22 Q Julie Albert's?

23 A No.

24 Q Were you concerned that if you seized any or all
25 of their phones, especially Colin, Julie, and Chris

1 that there might be some indicators that you knew them
2 on those phones?

3 A No, that thought never crossed my mind.

4 Q But the fact remains that you never sought to
5 seize any of those, did you?

6 A No, we didn't.

7 Q And you never asked, irrespective of what you saw
8 on the Cellebrite report, you never asked Jennifer
9 McCabe whether or not that was a complete and thorough,
10 a complete and accurate I should say -- let me ask it a
11 different way.

12 Did you ever ask Jennifer McCabe whether or not
13 she ever altered anything on her phone before turning
14 it in?

15 A I did not. Again, I didn't handle Ms. McCabe's
16 phone or did the cell phone extraction on it.

17 Q I want to ask you about another issue concerning a
18 potential conflict of interest.

19 You were well aware that Canton PD was supposed to
20 be, we talked about this at some length, conflicted off
21 the case as of January 29, 2022, right?

22 A Correct.

23 Q And you even put in that text message, "Nah, Katt.
24 It's the total opposite. They have to recuse
25 themselves BPD same with Canton," right?

1 A Yes.

2 Q Those were your words on January 29, right?

3 A Yes.

4 Q And you knew that the reason for -- one of the
5 reasons for Canton P.D. to recuse itself is because of
6 the relationship between the Alberts and one of the
7 detectives on Canton P.D. Kevin Albert, right?

8 A Correct.

9 Q You knew that Kevin Albert was the primary source
10 of the conflict, correct?

11 A Yes.

12 Q And you knew that he above everybody else should
13 be completely removed from any contact with the
14 investigation or the investigators, right?

15 A Correct.

16 Q Yet when you wanted to coordinate witnesses for
17 interviews in this case, who did you turn to?

18 A By texting Kevin Albert to see if he could secure
19 a conference room for us to conduct interviews at the
20 station.

21 Q The same Kevin Albert to help coordinate these
22 witness interviews who's the brother of Brian Albert,
23 right?

24 A Yes.

25 Q If you could turn to tab 13, please.

1 MR. JACKSON: Your Honor, for the Court's
2 edification it should be III as in India.

3 THE COURT: All right. Thank you.

4 Q Do you have that in front of you, Trooper Proctor?

5 A Yes, I do.

6 Q If you'll turn to page 2591.

7 MR. JACKSON: And with the Court's permission, I
8 would like to publish.

9 THE COURT: Okay.

10 Q Can you see on January 30, 2022, at about 11:55
11 a.m., Kevin Albert texts you on your personal cell
12 phone, "Paul G. is reviewing the reports right now.
13 Steve Serif is here if you need to interview him, and
14 we can call Steven Mullaney in as well," do you see
15 that?

16 A Yes.

17 Q Who's Paul G.?

18 A Lieutenant Paul Gallagher.

19 Q So Kevin Albert, a Canton PD officer an Albert is
20 texting you about Paul Gallagher, another Canton
21 officer, about interviewing Steve Serif, another Canton
22 officer, and Steve Mullaney a second Canton officer,
23 correct?

24 A Correct.

1 Q What investigation was Kevin Albert referring to
2 in the text?

3 A The death of John O'Keefe.

4 Q This investigation, right?

5 A Correct.

6 Q Did you tell Kevin Albert it's completely
7 inappropriate for him to be involved in this case at
8 all?

9 A I did not.

10 Q Did you tell him he shouldn't be having any
11 contact with any of the witnesses, and he shouldn't
12 even be having contact with you. Did you tell him
13 that?

14 A I did not.

15 Q What you did write back was quote, "Okay. Yuriy
16 and I are coming in at 1:00 to interview a firefighter,
17 Katie," correct?

18 A That's right.

19 Q So not only did you tell him that you were engaged
20 in the process of obtaining interviews, you told him
21 the name of the interviewee, right?

22 A Yes.

23 Q And you were going to do it at Canton PD, correct?

24 A Correct.

1 Q So you're sharing information about the identity
2 of witnesses that you intend to interview with Brian
3 Albert's brother, right?

4 A Yes.

5 Q Then you ask Kevin Albert to actually contact the
6 witnesses in order to schedule their interviews, didn't
7 you? A Yeah, I believe it was Officer Mullaney and
8 Sarif.

9 Q You text -- I'm sorry Kevin Albert texts, "Okay.
10 So I'll get Mullaney in as well. You interviewing her
11 here?" And you respond, "Yeah, if we can line them up
12 for 1:30 and 2:00, that would be great," correct?

13 A Yes.

14 Q So you were leaving it up to Kevin Albert to
15 contact and coordinate with the witnesses that you
16 intended to interview at Canton PD, correct?

17 MR. LALLY: Objection.

18 THE COURT: I'll allow it.

19 A Correct.

20 Q You then answered any time in the ballpark -- I'm
21 sorry, yes.

22 You answered, any time in the ballpark. Then you
23 went on and said from 1:30 on, correct?

24 A Yes.

1 Q Kevin Albert then says, "Okay. Sounds good." And
2 then he responds, "If you want to interview witnesses
3 in the recorded room here, you're more than welcome."
4 Do you see that?

5 A I do.

6 Q He was referring to an interview room or an
7 interrogation room where there is surreptitious
8 recording devices, correct?

9 A Yes.

10 Q That's to help facilitate memorializing interviews
11 that police officers want to take with any witness in a
12 crime, right?

13 A Correct.

14 Q That would mean that if you used a recorded room,
15 those recordings would be in the hands of which agency?

16 A That's why we did not use that recorded room.

17 Q But he offered, didn't he?

18 A He offered. We did not use it.

19 Q Do you see that as a problem?

20 A That he offered?

21 Q Yeah.

22 A No, I don't, sir.

23 Q You see that as a problem because he might, I
24 don't know, take some of those interviews and form them
25 to his brother?

1 MR. LALLY: Objection.

2 THE COURT: Sustained. You can ask it
3 differently, Mr. Jackson.

4 Q Did you -- were you concerned that Kevin Albert
5 was offering to utilize Canton's recording programs,
6 facility, in order to get access to what the witnesses
7 were saying so that he could then inform or tell his
8 brother?

9 A No.

10 Q Never crossed your mind?

11 A Never.

12 Q Well, if it never crossed your mind, why didn't
13 you go ahead and use the recording in the room?

14 A We typically don't record our interviews.

15 Q That's not what you said a second ago. You said
16 the reason we didn't use recording room was because of
17 the obvious possibility that Kevin Albert and Canton PD
18 could have access to the recordings.

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 Q Didn't you say, "That's why we didn't use it?"

22 A No.

23 Q That was your answer, right?

24 A No.

25 Q What did you say?

1 A That we didn't use it. You --

2 Q When I said if you made a recording it would be in
3 the hands of which agency, obviously Canton PD, and
4 your answer was, "That's why we didn't use the recorded
5 room," right?

6 A No, I don't recall saying that's why we didn't use
7 the room.

8 Q You just said it, Trooper Proctor. I mean, it's
9 been ten minutes. It's been four minutes.

10 A No.

11 Q You don't remember that.

12 A Not specifically stated like that.

13 Q All right. Let me ask it a different way. If you
14 weren't concerned that the interviews could be
15 compromised by Canton PD and Kevin Albert, why didn't
16 you just use the room, it was offered up?

17 A Again, typically we don't record interviews. With
18 a cooperating witness, we just sit down with them, take
19 notes. If it's someone we deem necessary to actually
20 have a recording of, then we'll pursue that option.

21 Q Trooper Proctor, after you knew that Canton Police
22 Department was conflicted off the case, you continued
23 to have a very close relationship with yet another
24 Albert, Kevin Albert, correct?

25 A We worked on a cold case together.

1 Q So you did have a close personal and professional
2 relationship with Kevin Albert, didn't you?

3 A I would say it was a professional relationship.

4 Q Only a professional relationship?

5 A Him and I were members at a gym together and we
6 worked a cold case together for several months.

7 Q Drinking, socializing maybe?

8 A Once in a while.

9 Q Right. So it went beyond professional, right?

10 A Acquaintances.

11 Q Drinking acquaintances, right?

12 A On several occasions, yes.

13 Q Socializing acquaintances, right?

14 A On several occasions.

15 Q So when you told the jury a few minutes ago that
16 you were aware of and knew of but didn't have
17 relationships with three Alberts - Julie, Chris, and
18 Colin, not quite true, is it?

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 Q There's a fourth Albert out there, isn't there,
22 Kevin, right?

23 A Yes.

24 Q But you didn't tell us about that one?

25 MR. LALLY: Objection.

1 THE COURT: I'll allow it.

2 Q Correct?

3 A I don't consider that a relationship. It's --

4 Q Well, let's look at that. Five months into this
5 investigation in July of 2022, you were actually
6 continuing to socialize with Kevin Albert, weren't you?

7 A Yes.

8 Q On July 19, 2022, you and Kevin Albert went out
9 drinking together, didn't you?

10 Trooper Proctor, I'm not asking you to look for
11 anything in the binder at this point. I'm asking for
12 your memory.

13 A I don't recall that.

14 Q You don't recall the date or you don't recall --

15 A July 19, 2022.

16 Q You don't recall the drinking?

17 A The date itself, sir.

18 Q Why don't we turn to tab 13.

19 A Yes, sir.

20 THE COURT: Do I have a number or a letter?

21 MR. JACKSON: We're still in tab 13.

22 THE COURT: All right. So what page, Mr. Jackson?

23 MR. JACKSON: Page 2602. May I?

24 THE COURT: Yes.

25 MR. JACKSON: Thank you.

1 Q Trooper Proctor, are you on 2602?

2 A I am.

3 Q The fact of the matter -- does that refresh your
4 recollection that on July 19, 2022, you and Kevin
5 Albert had been out drinking together?

6 A It does.

7 Q In fact, the two of you got so drunk that Kevin
8 Albert left his badge in your cruiser and couldn't find
9 his gun the next morning, right?

10 MR. LALLY: Objection.

11 THE COURT: Overruled.

12 A I can't speak to any level of intoxication, but I
13 don't recall any of us -- either of us being
14 intoxicated.

15 Q Got it.

16 Q So isn't it true that on 7/20, July 20, 2022, the
17 day after at 8:39 in the morning, you texted Kevin
18 Albert quote, found your badge in my cruiser this
19 morning, end quote, correct?

20 A Yes.

21 Q Then you texted him, "I can leave it in my locker
22 at the gym, drop it off at your station, or leave it in
23 my mailbox," correct?

24 A Correct.

1 Q Kevin Albert responds, "My mailbox. Did I take my
2 gun?" And it included a wind face emoji, correct?

3 A Correct.

4 Q So the fact of the matter is you two got so drunk
5 that he couldn't find his badge and had to ask you the
6 next morning where his gun was, right?

7 A Again, I can't speak to any level of intoxication.
8 Whether he just forgot it, I don't know.

9 Q I'm not asking you about his BAC, Trooper Proctor.
10 I'm asking have you seen drunk people before?

11 A Yes.

12 Q You've been drunk before.

13 A Yes, I have, sir.

14 Q We've all been drunk before, right?

15 A Yes.

16 Q Was he drunk? Were you drunk that night?

17 A I don't recall. It was long time ago.

18 Q But he left his badge in your cruiser after a
19 night of drinking; isn't that right?

20 A Yes.

21 Q Which means you were drinking and driving in your
22 cruiser, right?

23 A From what I remember, we were went down the Cape
24 working on the cold case together and stopped for
25 dinner, had a few beers, and then dropped him off.

1 Q The next morning, Kevin Albert also texted you,
2 page 2606. Starting with, "It's bad." Tell me when
3 you see that.

4 A Okay. I see it.

5 MR. JACKSON: Your Honor, may I publish?

6 THE COURT: Yes.

7 Q Kevin Albert responded, "It's bad," exclamation
8 point, exclamation point. "I was hung over for sure
9 today," exclamation point, exclamation point. "A
10 couple tonight to make me feel good," correct?

11 A Correct.

12 Q You can take that down. Does that refresh your
13 recollection the two of you had been out drinking the
14 night before, you got so drunk that he couldn't find
15 his badge and he couldn't even find his gun?

16 A Yes, it does refresh my memory.

17 Q Right. And you were in your cruiser, right?

18 A Yes, sir.

19 Q And this is with Brian Albert's brother, Trooper
20 Proctor?

21 A Correct.

22 Q I'm going to change gears, Trooper Proctor. You
23 personally collected John O'Keefe's clothes from the
24 hospital at Good Sam in Brockton, did you not?

25 A I did.

1 Q I'd like to -- at the time you were at Good Sam,
2 you actually had the opportunity, you had the occasion
3 to see Mr. O'Keefe in the hospital, correct?

4 A Yes.

5 Q You also had the occasion to see his clothing in
6 the hospital, correct?

7 A Yes.

8 Q That's the clothing that you ultimately gathered;
9 is that right?

10 A Correct.

11 MR. JACKSON: May I approach, Your Honor?

12 THE COURT: Yes.

13 Q If you could take a look at that.

14 A Mm-hmm.

15 Q Tell me if you recognize it.

16 A I do.

17 Q Is that photograph of you -- I'm sorry. It's not
18 of you, but do you see your legs in that photograph?

19 A Yes.

20 Q And you also see the legs of Mr. O'Keefe on the
21 hospital gurney, correct?

22 A I do.

23 Q And you see a pile of clothes there?

24 A Correct.

1 MR. JACKSON: Your Honor, if I could have this
2 marked and admitted.

3 THE COURT: Any objection?

4 MR. LALLY: No, Your Honor.

5 THE COURT: Okay.

6 (Whereupon Exhibit No. 568, Photograph, was marked as
7 an exhibit.)

8 THE COURT REPORTER: Exhibit 568.

9 MR. JACKSON: Five-six-eight. Are we ready? May I
10 inquire?

11 THE COURT: Yes.

12 MR. JACKSON: Thank you. Request the Court's
13 permission to publish?

14 THE COURT: Okay.

15 Q Do you see this -- do you see the photograph in
16 front of you? Is that the same photograph that's been
17 published up on the television screen?

18 A Yes, sir.

19 Q Directing your attention to the left most portion
20 of the photograph. Do you see the clothes -- first,
21 the clothes on the ground?

22 A I do, yes.

23 Q Okay. And that appears to be what? What items or
24 articles of clothing do you see?

25 A The T-shirt, possibly the jeans.

1 Q A gray shirt as well?

2 A Yes.

3 Q Okay. And those are your legs to the uppermost
4 part of the screen, correct?

5 A I believe --

6 Q In the blue pants?

7 A Yes.

8 Q And do you see to the left most portion of the
9 screen a chair?

10 A I do.

11 Q Do you see what's on that chair?

12 A My binder.

13 Q That's your portfolio?

14 A It is.

15 Q That's something that you carry routinely as
16 you're investigating during the course of your
17 investigations?

18 A Yes.

19 Q Where you keep notes and things of that nature?

20 A Yes.

21 Q Pens, paper?

22 A Correct.

23 Q All right. We can take that down.

1 You indicated that you took possession of those
2 clothing items from the Good Samaritan Hospital,
3 correct?

4 A Correct.

5 Q You bagged them, bagged, B-A-G-G-E-D, bagged them,
6 correct?

7 A Yes.

8 Q And then what did you do with them after that?

9 A We secured them in Sergeant Bukhenik's pickup
10 truck.

11 Q And then what happened after they were secured in
12 his pickup truck?

13 A We traveled to Dighton to Mr. Read's house.

14 Q Once you ultimately got back, I don't want to have
15 to take you through the entire -- everybody knows where
16 you went.

17 A Okay.

18 Q Sergeant Bukhenik has already testified. You get
19 back to Canton at some point, correct?

20 A Yes.

21 Q Ultimately, were the clothes transported into the
22 -- your facility?

23 A Yes.

24 Q At the D.A.'s office?

25 A Correct.

1 Q Okay. What did you with them after that?

2 A We brought them to the --

3 Q I'm going to ask you what you did, not what we
4 did, what you did.

5 A Sergeant Bukhenik and I brought them to the
6 evidence processing area, laid out butcher paper so the
7 clothes could dry, put them on there -- in that area,
8 and then I brought two cell phones to Trooper Guarino
9 so he could try to attempt to extract the phones.

10 Q Did you -- what did you do with the clothing after
11 it was dried out?

12 A So the next day, Trooper DiCicco arrived and
13 brought them into the permanent evidence area where
14 only him, another trooper in my office have access to.
15 So they were secured from -- at that point.

16 Q So you didn't book them into evidence?

17 A I did not, no.

18 Q When they're booked into evidence there's supposed
19 be a log of that, correct?

20 A I'm sorry?

21 Q There's supposed to be a log of that when they're
22 booked into evidence, correct?

23 A Yes.

24 Q You're the case officer on the case. One of your
25 responsibilities is to make sure that chain of custody

1 is maintained throughout the entirety of the
2 investigation all the way up to a courtroom, correct?

3 A Yes.

4 Q Where's the log of those items being booked into
5 evidence?

6 A There was a chain of custody from when they
7 entered the facility -- the D.A.'s office and then when
8 Trooper DiCicco created a label for them and also put
9 them in a secure facility.

10 Q Can you show where that is?

11 A I'm not the evidence officer. I don't have that.

12 Q I see. So you didn't bring a log with you of any
13 sort -- of any sort concerning the chain of custody of
14 these items, correct?

15 A No.

16 Q As a matter fact, the reason you didn't bring that
17 chain of custody log is because none exists; isn't that
18 right?

19 MR. LALLY: Objection.

20 THE COURT: Sustained. Ask it differently.

21 Q Does a physical log exist starting from January
22 29, 2022, to today?

23 A Yes.

24 Q Where is that physical log, sir?

25 A I'm not an evidence officer so I don't how that --

1 Q (Indiscernible.)

2 A Yeah, so I don't how that's generated.

3 Q Right. So as the case officer, you have no idea
4 where an evidence log is that has something as
5 insignificant as, I don't know, the victim's clothing.

6 MR. LALLY: Objection.

7 THE COURT: Sustained.

8 Q The fact of the matter is the evidence log
9 attendant to this case regarding those clothing items
10 starts on March 14, when they were taken to the crime
11 lab, correct?

12 A That's when the clothing was transported to the
13 lab.

14 Q And that's the only log we have of what happened
15 to those clothes between January 29, and today,
16 correct?

17 MR. LALLY: Objection.

18 THE COURT: Overruled. Do you know that?

19 THE WITNESS: I don't. Not off the top of my head,
20 ma'am.

21 Q I want to talk for a second about the searches in
22 Brian Albert's front lawn that took place on an after
23 January 29, 2022. As the case officer, Trooper
24 Proctor, you also took control of the taillight pieces

1 that were ultimately claimed to have been found at that
2 location, correct?

3 A Not in all searches.

4 Q Which of the pieces that were found were you
5 responsible for taking control over?

6 A The 8th, 11th, and 18th.

7 Q So who had control over the items that were found
8 before the 8th? You said the 8th, 11th, and 18th,
9 correct?

10 A Those were items that I had found on those days
11 and that I had processed and essentially bagged and
12 tagged them and handed them over to our evidence
13 officer. There was multiple days that troopers were
14 out there looking for more evidence.

15 Q So there would be a lot of that, too, right?

16 A Again, how the system works as far as the evidence
17 comes in, I can't speak to that.

18 Q So you have no idea what the chain of custody of
19 any of these items are - the clothing or the taillight
20 material from January 29, until March 14, when the
21 evidence log starts, is that what you're saying?

22 MR. LALLY: Objection.

23 THE COURT: I'll allow it.

24 A There is a log. I mean, it's in our system where
25 labels are created, and it generates the time and date

1 that a label is created and then it shows that it's at
2 our office in a secured facility and then it was
3 brought to the lab on the 14th.

4 Q What happens if the label is created and it says
5 something like, I don't know, February 4? What
6 happened to the items before February 4?

7 A They were stored in a secured facility --

8 Q Says who?

9 A -- a secured room.

10 Q Says who? Where's the log?

11 MR. LALLY: Objection.

12 THE COURT: Sustained.

13 Q Is there a log of that?

14 A Not to my knowledge.

15 Q You were responsible for seizing Ms. Read's car,
16 correct?

17 A Yes.

18 Q And you originally claimed that that seizure took
19 place at 5:30 p.m.; is that right?

20 A Correct.

21 Q You signed numerous affidavits under oath claiming
22 that you did not seize Ms. Read until 5:30 p.m. on
23 January 29, 2022, right?

24 A Correct.

1 Q At the time that you seized Ms. Read's vehicle,
2 you were unaware that there was alarm.com surveillance
3 footage of the area from which the car was seized,
4 correct?

5 A Correct.

6 Q The fact of the matter is that was false. The car
7 was not seized at 5:30, was it?

8 A Four-sixteen p.m.

9 Q Right. An hour and change. An hour and 18
10 minutes, an hour and 20 minutes earlier; is that right?

11 A Yes.

12 Q Did you ever seek to change or amend the error,
13 that false statement, about the time --

14 A So --

15 Q -- the car was seized in any of those documents
16 that you filed under oath?

17 A When I incorrectly transcribed the times, it was
18 on the first affidavit I had written, and then as I
19 continued to write other search warrants, I used that
20 as a template. So I never caught on the first one and
21 that's the reason those times are off on the other
22 affidavits I had wrote.

23 Q So the first one was false and then every single
24 one after that was false, too?

25 A It was just an incorrect transcription of time.

1 Q An incorrect transcription of the time.

2 A Yes.

3 Q You would call that, I don't know, a scrivener's
4 error?

5 MR. LALLY: Objection.

6 THE COURT: Ask it differently.

7 MR. JACKSON: Sure.

8 Q Was it a typo?

9 A Yes.

10 Q It was a typo. So you got the four wrong, you got
11 the one wrong, and you got the six wrong, and those
12 turned into five and three and zero, right?

13 A They were typos, sir.

14 Q Okay. The fact of the matter is you delivered
15 that car to Canton PD to the sally port garage before a
16 single piece of taillight material was ever found in
17 this case, Trooper Proctor; is that correct?

18 A That's correct. It arrives at 5:31.

19 Q And you also towed it to the Canton Police
20 Department because that was conveniently close to the
21 location at 34 Fairview to the crime scene, right?

22 A That was not my decision.

23 Q Whose decision was it?

24 A I don't recall. I know that --

25 Q Well, you're the case officer.

1 A I wouldn't --

2 Q Who decides?

3 A It wasn't my decision. I did not make that call,
4 sir.

5 Q So who are we pointing the finger at? Was it
6 Sergeant Bukhenik?

7 MR. LALLY: Objection.

8 THE COURT: Ask it differently, Mr. Jackson.

9 MR. JACKSON: Sure.

10 Q Was it Sergeant Bukhenik who made that decision to
11 transport it to Canton?

12 A It's a supervisor's decision. I don't know who it
13 came from.

14 Q Was it Lieutenant Tully?

15 A Again, I don't know who it came from.

16 Q So you were just following orders.

17 A Yes.

18 Q Got it. You are aware that Massachusetts State
19 Police, your agency, actually has not one but two
20 barracks - one in Middleborough, one in Foxborough that
21 both closer as the crow flies than the Canton PD
22 sallyport from where the car was taken, correct?

23 A Yes.

1 Q Both of those facilities were passed by and the
2 car was ultimately placed at the Canton PD sallyport at
3 5:31 or so, right?

4 A Yes.

5 Q And you're aware that that sallyport is about
6 three minutes from 34 Fairview?

7 A Yes.

8 MR. JACKSON: May I just have a moment, Your
9 Honor?

10 THE COURT: Yes.

11 Q Trooper Proctor, you were the lead case officer on
12 this case. That means that you were required to
13 collect and maintain all the videos that were pulled in
14 connection with this investigation, correct?

15 A Correct.

16 Q And you obviously are aware of your legal
17 obligation to turn over any and all exculpatory
18 information that you were to come -- that you might
19 come in possession of, correct?

20 MR. LALLY: Objection.

21 THE COURT: That's sustained.

22 Q You did pull a lot of video in connection with
23 this case, did you not?

24 A Yes.

1 Q About 290 videos from Ring camera located in the
2 driveway at 1 Meadows; does that sound about right? I
3 don't expect you to have counted every single one, but
4 just under 300?

5 A Correct.

6 Q A ton of them, right?

7 A Yes.

8 Q Another 140 videos or so from the front door Ring
9 camera of that same location 1 Meadows, right?

10 A Yes.

11 Q Nine videos from the Waterfall Bar and Grill?

12 A Yes.

13 Q Eight videos from the Temple Beth --

14 A Yes.

15 Q -- facility? Five videos from C.F. McCarthy's?

16 A Yes.

17 Q Four dash cam videos?

18 A Correct.

19 Q Two videos from Canton Town Library?

20 A Correct.

21 Q Two videos from Cassie's Corner Store, right?

22 A Yes.

23 Q Two videos from the cars test on Ms. Read's
24 vehicle; is that right?

25 A Yes.

1 Q And two videos from the location at 34 Fairview
2 where individuals were using leaf blowers?

3 A Correct.

4 Q All of those, I did some rough math, 360-odd
5 videos were handed over to the defense in or about June
6 of 2022; is that your understanding?

7 MR. LALLY: Objection.

8 THE COURT: That's sustained.

9 Q They were provided in discovery to the defense
10 ultimately, right?

11 A Okay, yes.

12 Q Does it sound like -- I don't expect you to have
13 the date down pat, but spring of 2022, sound about
14 right, spring, early summer?

15 A Yes.

16 Q All right. But there was additional video
17 surveillance that you chose to hold back from that
18 discovery, correct?

19 MR. LALLY: Objection.

20 THE COURT: Did you hold back videos?

21 THE WITNESS: I did not, Your Honor.

22 THE COURT: Okay. Next question.

23 Q There's surveillance video from Canton Police
24 Department's sallyport garage that wasn't turned over,
25 right?

1 A That video was discovered later on and then handed
2 over.

3 Q The first time you revealed the existence of that
4 footage was in that separate proceeding in February of
5 2024; isn't that right?

6 A Yes.

7 Q You were questioned about it and you knew you were
8 under oath at the time, correct?

9 A Correct.

10 Q And that's when you disclosed, yes, there is
11 sallyport footage, and I've seen it.

12 A The video I was referencing was the exterior
13 sallyport camera where you can't make out anything.

14 Q Well, let's talk about that for a second. The
15 exterior you said -- exterior outside?

16 A Correct.

17 Q Meaning the one of the driveway?

18 A Right.

19 Q And you say you can't make anything out in that?

20 A There's two different ones. There's the main
21 driveway camera, and then there's an exterior sallyport
22 camera.

23 Q You were asked about this set of videos at that
24 other hearing, right?

25 A Yes.

1 Q And you indicated at the time that there was one
2 grainy video, sort of mainly black and grainy?

3 A Yes.

4 Q And another one that showed you and Sergeant
5 Bukhenik arriving at Canton PD behind Ms. Read's
6 vehicle on the tow truck; is that right?

7 A Yes.

8 Q You were asked very specifically, "Are you aware
9 of whether there are any cameras in the garage in the
10 sallyport where Karen Read's SUV was parked," and your
11 answer was yes, right? In the garage?

12 A Yeah, I don't recall.

13 Q Do you recall being asked that question?

14 A No.

15 Q I can repeat it if you wish.

16 A Yeah, please.

17 Q Question: "Are you aware of whether there any
18 cameras in the garage or sallyport where Karen Read's
19 SUV was parked?" Answer: "Yes."

20 A Okay.

21 Q And then you answered, "Have you reviewed the
22 video footage of that garage?" Answer: "I saw one very
23 grainy video and then another of Sergeant Bukhenik and
24 I arriving in the main entrance around 5:30 following
25 the vehicle." Do you remember that answer?

1 A Yes.

2 Q That clearly was an answer to the question did you
3 see video of the interior of the garage, right?

4 MR. LALLY: Objection.

5 THE COURT: Sustained. Ask it differently.

6 Q Were you answering a question about video inside
7 the garage?

8 A No. I was answering the question about what video
9 I observed, and it was exterior video that I observed.

10 Q Although the answer to the question was, cameras
11 in the garage or sallyport, that was the question.

12 A If I was aware of any.

13 Q And your answer was yes. And then the next
14 question is have you reviewed the footage and your
15 answer was, "I saw one very grainy video, and then
16 another, Sergeant Bukhenik and I arriving in the main
17 entrance around 5:30 following the vehicle," right?
18 That was your testimony.

19 A Yeah, those two videos I'm referring to are in the
20 exterior of the building.

21 Q Question: "When did you watch the video from the
22 sallyport?" Answer: "I haven't reviewed it, sir, in
23 quite some time, so I can't recall what's on there."
24 Do you remember that?

25 A Yes.

1 Q So obviously at the time in February of 2024, you
2 had had that video surveillance, you had had that
3 footage for so long that you couldn't remember exactly
4 what was on it because it had been, quote, quite some
5 time, right?

6 A The exterior sallyport camera.

7 Q Except you weren't asked about the exterior. You
8 were asked question, "When did you watch the video from
9 the sallyport," right? That was the question.

10 A Well, that was the video we had so that was how I
11 referenced it. There was an exterior sallyport video.

12 Q Why didn't you say to the person that was
13 questioning you under oath, I don't know anything about
14 the video inside the sallyport. I'm referring to
15 outside the building. Why didn't say that and clarify
16 it?

17 A I should've clarified it, sir.

18 Q Because you'll agree it sounds a hell of a lot
19 like, an awful lot like, you're talking about what's
20 inside the sallyport, right?

21 MR. LALLY: Objection.

22 THE COURT: Sustained.

23 Q The next question you were asked, "Why did you
24 review the video of the sallyport?" Answer: "We review

1 every video we pull and we pull a lot of video." Do
2 you remember that?

3 A I do.

4 Q Not one word in that testimony. Not one word says
5 exterior, does it?

6 A No, it does not.

7 Q You testified that you had obtained and reviewed
8 the sallyport garage video so long ago that you
9 literally couldn't even remember what was on it, right?

10 A Correct.

11 Q You did know, however, that if you had video at
12 the sallyport, it would clearly show that Ms. Read's
13 vehicle arrived at 5:30, 5:31. You knew that, correct?

14 A Yes, from the driveway camera.

15 Q But you withheld that video out of 360 odd videos
16 that you turned over, you withheld that one and never
17 mentioned it until February of 2024, correct?

18 MR. LALLY: Objection.

19 THE COURT: Is that true?

20 THE WITNESS: That's -- I'm not aware of that of
21 withholding that.

22 Q On April 4, 20 24th -- 20 24th, it's getting late.
23 On April 4, 2024, you turned over one video from
24 the interior of the sallyport garage, correct?

25 A Yes, sir.

1 Q The interior, not the exterior, right?

2 A Correct.

3 Q And that remarkably enough was a grainy video,
4 right?

5 A Yes.

6 Q And that video was missing the precise time that
7 that vehicle was delivered to the sallyport, correct?

8 MR. LALLY: Objection.

9 THE COURT: Was it? I'll allow it.

10 A I don't recall.

11 Q It's missing 42 minutes at the beginning, and it
12 jumps from 5:08 p.m. to 5:50 p.m., correct?

13 MR. LALLY: Objection.

14 THE COURT: Sustained.

15 Q Have you reviewed the video?

16 A Yes.

17 Q Did you see that the timestamp jumps from 5:08 to
18 5:50?

19 MR. LALLY: Objection.

20 THE COURT: Sustained.

21 MR. JACKSON: Your Honor, how's it --

22 THE COURT: I'll see you at sidebar if you want.

23 MR. JACKSON: Okay. Please.

24 (Sidebar commences:

1 THE COURT: All right. So go ahead. Make your
2 record, Mr. Lally, what's the objection?

3 MR. LALLY: Well, I believe it was Mr. Jackson's
4 point last week that the video speaks for itself, and
5 this jury has already seen the video multiple versions
6 of it multiple times. Whether or not this specific
7 witness recalls exactly when it happened, I mean,
8 essentially Mr. Jackson he's testifying as to what the
9 video shows.

10 THE COURT: Go ahead, Mr. Jackson.

11 MR. JACKSON: I'm asking a factual question:
12 whether he's aware of the gap in the video. He's the
13 one that pulled it. He said he's the one who retrieved
14 it. He's reviewed it --

15 MR. LALLY: I don't even know if he said if he's
16 the one who pulled it.

17 MR. JACKSON: I want to know whether he's aware of
18 the gap in the video, and whether or not that gap was
19 consistent with the time the car arrived at the
20 location. He's in the best position to know.

21 THE COURT: So those are two different questions.
22 If you ask him all at once, it's problematic. Ask
23 those two different questions.

24 MR. JACKSON: We'll do.
25 end of sidebar.)

1 MR. JACKSON: May I?

2 THE COURT: Yes.

3 MR. JACKSON: Thank you.

4 Q You reviewed the video, the grainy video, correct?

5 A Yes.

6 Q And that's from a camera perspective that would
7 show or that does show the right rear area of the SUV
8 after it's pulled in, correct?

9 A Yes.

10 Q Did you note that the time jumps from 5:08 to
11 about 5:50 at the beginning of the video?

12 A Yeah, I observed a jump in video.

13 Q And that was about 42 minutes, correct?

14 A Approximately, yes.

15 Q You're aware that there's another video from the
16 interior of that sallyport as well, correct?

17 A Yes.

18 Q And you're also aware that that -- by the way, did
19 you secure that video, the second one? Let me ask you
20 a predicate question because it's getting confusing.

21 The second video from the interior of the
22 sallyport is inverted --

23 A Mm-hmm.

24 Q Correct?

25 A Yes.

1 Q You're now aware of that?

2 A I am.

3 Q Did you recover that video?

4 A I did not.

5 Q Who did?

6 A I believe Detective Lieutenant Tully received that
7 from the Canton police chief.

8 Q Rafferty?

9 A I believe so.

10 Q Who asked for it?

11 A I'm not sure, sir.

12 Q Did you make the request?

13 A I did not.

14 Q How did you become aware a request had been made?

15 A I was made aware that video had essentially
16 existed from the interior sallyport area.

17 Q By whom?

18 A I was probably informed by Detective Lieutenant
19 Tully.

20 Q So Lieutenant Tully tells you that a second video
21 exists, correct?

22 A Interior sallyport cameras, yes.

23 Q When did he tell you that?

24 A I don't recall.

25 Q Was it weeks ago or years ago?

1 A Oh, it was more recent than, you know, maybe
2 months ago, a month ago.

3 Q As a matter fact, it was after the trial had
4 already started in mid-April, correct?

5 A I don't recall. I thought it was before.

6 Q If it was before, was it weeks before, days
7 before?

8 A I don't recall.

9 Q I'm just trying to pin down. Like, are we talking
10 about six months ago, or are we talking about six weeks
11 ago?

12 A Yeah, it wasn't six months ago.

13 Q Okay. So a few weeks ago, you were told about the
14 second video from Lieutenant Tully, right?

15 A Yes.

16 Q Did he tell you that he had already seen it?

17 A I'm sure he watched it.

18 Q Did he tell you he needed you to go get it?

19 MR. LALLY: Objection.

20 THE COURT: I'll allow that.

21 A No.

22 Q So when was the first time you saw it?

23 A A few weeks ago, a month ago.

24 Q What were the circumstances in which you saw the
25 video?

1 A Just reviewing the video.

2 Q Where?

3 A At my desk.

4 Q So you pulled -- pardon me. You had access to the
5 video?

6 A Yes.

7 Q It was on your system somehow?

8 A It was on thumb drives and a disk.

9 Q You put that in your computer and just decided on
10 your own to watch it, correct?

11 A Yes.

12 Q And what did you notice?

13 A The SUV being brought into the garage.

14 Q You're in the video, right? That's you toward the
15 back of the truck?

16 A Yep, I'm in the video. Some Canton members,
17 Canton P.D. members there as well. Tow truck guy drops
18 the vehicle off. He's in the front driver seat.
19 Exits. Sergeant Bukhenik's there. I believe Chief
20 Berkowitz, the retired police chief.

21 Q Where was he?

22 A He was kind of like mulling around the area. I
23 feel like he was towards the back open garage gate
24 there.

25 Q The back door where --

1 A Yeah.

2 Q Where you were?

3 A Yes.

4 Q Was he the person -- did you note that there were
5 certain individuals that just seemed to be apparate out
6 of nowhere, just appear?

7 A Yes, there was one individual at the top left
8 corner of the video pushing a broom that kind of just
9 appeared.

10 Q And also toward the back of the vehicle, somebody
11 just while you were at the back of the vehicle just
12 sort of appeared and walked out of the sallyport,
13 correct?

14 A Yes.

15 Q And was that Chief Berkowitz?

16 A Yeah, that's my -- it looks like him, yes.

17 Q Okay. So you and Chief Berkowitz are both toward
18 the rear of the vehicle. He just apparates out of thin
19 air because the video is missing some footage, correct?

20 A It appears that way --

21 Q And you --

22 A -- or it skips.

23 Q I'm sorry. I didn't mean to interrupt you.

24 A Or it skips. I don't know that system at all, so.

1 Q And you're holding what appears to be that same
2 black portfolio that we saw in the hospital?

3 A Yes.

4 Q So anything else you noticed that was odd about
5 the video other than the time skips?

6 A So the timestamp at the bottom was inversed, it
7 was reversed.

8 Q I beg your pardon?

9 A Yeah, the timestamp on the bottom of it was
10 backwards.

11 Q Was it blue?

12 A So instead of reading left to right, it was right
13 to left.

14 Q I understand.

15 A Okay.

16 Q Was it blue?

17 A I believe it was yellow.

18 MR. JACKSON: May I have just a moment, Your
19 Honor?

20 THE COURT: Yes.

21 Q So the video you saw had a timestamp that was
22 inverted, correct?

23 A Yes.

24 Q What about the video itself, was that inverted?

1 A No. From the video I saw the way the vehicle was
2 brought in in relation to the garage and the doors into
3 the PD, it was -- wasn't reverse or inverted.

4 Q It was or was not?

5 A It was not.

6 Q So as you saw the video, the portion of the
7 vehicle that purported to be the passenger side was in
8 fact the passenger side, and the vehicle of the side of
9 the vehicle that purported to be the driver's side was
10 in fact the driver's side.

11 A Yes, so I reviewed video yesterday just to rewatch
12 it, and the one that I watched had the correct angle,
13 it was in reverse. The car was brought in. The tow
14 truck driver gets out from the driver's side. It was
15 in reverse. The only thing reversed on it was like the
16 timestamp on the bottom.

17 Q Well, were you watching video that was produced in
18 this trial?

19 A Yes.

20 Q So were you aware that the defense presented a
21 piece of evidence?

22 MR. LALLY: Objection.

23 THE COURT: I'll allow it.

1 Q Were you aware that the defense presented a piece
2 of evidence where we inverted the video back to the
3 correct?

4 A No, I was not.

5 Q And that timestamp was inverted?

6 A I was not aware of that.

7 Q When did you watch that video?

8 A Just the other day I was reviewing it.

9 THE COURT: Okay. Mr. Jackson, we'll take our
10 luncheon break.

11 MR. JACKSON: Okay. Thank you.

12 (Court in recess.)
13
14
15
16

17 (Court in session.)

18 (Defendant is present with counsel.)

19 (Jury in.)

20 THE COURT: Okay. Let's bring the witness in,
21 please.

22 All right, Mr. Jackson, whenever you're ready.

23 MR. JACKSON: Thank you, Your Honor.

24 Q (By Mr. Jackson) Trooper Proctor, before we broke
25 we were discussing sallyport video that you watched

1 several weeks ago. I want to make sure I'm clear about
2 this. You indicated that the video that you watched
3 was proper in terms of orientation but the timestamp on
4 the bottom had been inverted, correct?

5 A Yes, that's the way it appeared.

6 Q And recalled that being a yellow Chiron
7 underneath?

8 A To the best --

9 Q In other words the font color?

10 A To the best of my memory, yes.

11 Q Which of the Canton Police Department videos were
12 you responsible for retrieving, if any?

13 A I did not retrieve any of them.

14 Q So what I'm trying to ask is and maybe I'm doing
15 it inartfully.

16 How did those sallyport videos end up in the
17 possession of the Commonwealth? What was the line of
18 succession?

19 A Detective Lieutenant Tully retrieved the sallyport
20 videos I believe.

21 Q And do you know from he retrieved those sallyport
22 videos, what individual?

23 A I believe it was the chief of police.

24 Q Okay. Chief Rafferty specifically gave him
25 whatever videos were provided?

1 A Correct, that's my understanding.

2 Q And then he provided those to you for your review?

3 A Yes.

4 Q I want to stay on the subject of videos for a
5 second, but shift bear to the Ring video footage.

6 You've already testified that there were several
7 hundred Ring videos from 1 Meadows from both the facing
8 the driveway and the front door camera, correct?

9 A Yes.

10 Q As the case officer, you obtained and controlled
11 those Ring videos from 1 Meadows from the moment that
12 they came into Massachusetts State Police custody until
13 they were handed over to the Commonwealth, correct?

14 A Yes, they were archived.

15 Q You drafted the search warrant for the Ring video
16 access records, correct?

17 A I did.

18 Q You obtained the warrant returns once those search
19 warrant were executed, correct?

20 A I did.

21 Q You took possession of Mr. O'Keefe's cell phone,
22 physically, correct?

23 A Yes.

24 Q And you had access to Mr. O'Keefe's Ring account
25 in that cell phone; is that right?

1 A Correct.

2 Q You indicated that you reviewed several of the
3 videos on his Ring app on his cell phone; is that
4 right?

5 A Yes.

6 Q So you obviously had not only possession of his
7 cell phone, you had possession of his login account
8 information to get into the app on his cell phone; is
9 that right?

10 A I don't know if we had the password. We had his
11 email account associated with the Ring app.

12 Q Which means some way or another you could get
13 access to the Ring videos?

14 A Correct.

15 Q And watch those Ring videos on his app on the
16 phone?

17 A Yes.

18 Q Which means you have full access to the app, you
19 could keep videos you could say for later, you could
20 delete videos, you could do anything you wanted to
21 within that app, correct?

22 A Yes, those are the capabilities within that app.

23 Q Trooper Proctor, did you delete any of the Ring
24 videos ever from John O'Keefe's phone?

25 A Absolutely not.

1 Q Did you delete a video of Ms. Read arriving to 1
2 Meadows at approximately 12:41 a.m. on January 29,
3 2022?

4 A Absolutely not.

5 Q You will agree, Trooper Proctor, that the video of
6 Ms. Read returning home from 34 Fairview at
7 approximately 12:41 a.m. is not there.

8 A Correct.

9 Q As the case officer, you're aware that Trooper
10 Proctor -- I'm sorry -- Trooper DiCicco also reviewed
11 some or all of those videos, correct?

12 A Yes.

13 Q And he did that at your request?

14 A Correct.

15 Q He took notes of his review of those videos,
16 correct?

17 A Yes.

18 Q And then he provided those notes to you so that
19 you could then memorialize those notes and your notes
20 in a broader report which you then drafted in November
21 of 2022, correct?

22 A If memory serves me, the report I wrote regarding
23 the Ring camera was based off my observations of the
24 videos that I had watched.

1 Q But you certainly did have, as you just indicated,
2 you accumulated his notes and review his notes as well
3 as your own notes, correct?

4 A The best of my recollection I wrote that report
5 off of my notes.

6 Q Did you actually at any point before writing your
7 report, did you note or did you review his notes?

8 A I can't recall.

9 Q You asked him -- he reviewed the videos at your
10 directions, correct -- at your direction, correct?

11 A Yes.

12 Q And obviously he would have wanted to provide you
13 whatever insights he had into his review of those
14 videos, otherwise, what's the point, right?

15 A Correct.

16 Q So when you reviewed his notes, did you see that
17 they were on some sticky pads? Do you remember that?

18 A That sounds about right.

19 Q Do you recall exactly as you sit here exactly what
20 was on one or more of those sticky pads that you
21 reviewed from Trooper DiCicco?

22 A I don't know.

23 Q Would it refresh your recollection if you were to
24 take a look at a copy of those notes?

25 A Yes.

1 MR. JACKSON: May I, Your Honor?

2 THE COURT: Yes.

3 Q If you wouldn't mind taking a look at the top --
4 the upper most top note that's highlighted with a
5 sticky note next to it.

6 A Okay, sir.

7 Q Thank you.

8 MR. JACKSON: May I approach?

9 THE COURT: Yes.

10 Q Trooper Proctor, do you have these notes in mind
11 specifically the uppermost note?

12 A The 0041?

13 Q Correct.

14 A Yes.

15 Q All right. You reviewed this previously before you
16 wrote your report, correct?

17 A Yes.

18 Q And you note that 0041 which is a time relative to
19 what DiCicco was looking at on the Ring video, he
20 indicated taillight from drive taillights from
21 driveway, parentheses, I think she arrived home, end
22 parentheses, correct?

23 A Correct.

24 Q Zero-zero-forty-one is what? What is that in
25 reference to?

1 A Just after midnight the approximate time when Ms.
2 Read would be returning from Fairview Road.

3 Q It's military time for 12:41 a.m., correct?

4 A Yes.

5 Q You wrote a report on November -- I'm sorry. I
6 earlier said November. It's actually June 1, 2022,
7 memorializing the times -- memorializing the times that
8 were of note to you in that Ring footage, correct?

9 A Yes.

10 Q Do you recall every single entry that you made
11 concerning the events that were of note to you that
12 were reflected in your report?

13 A The majority of them. Not every single one.

14 Q Would it refresh your recollection to look at a
15 copy of your report to determine what all you did and
16 did not note?

17 A Yes, sir.

18 MR. JACKSON: May I approach?

19 THE COURT: Sure. Do you have it with you,
20 Trooper? Do you have your report with you?

21 THE WITNESS: Your Honor, no, I don't.

22 Q I ask you to review that report especially as to
23 page 2 and 3.

24 MR. JACKSON: May I approach?

25 THE COURT: Yes.

1 MR. JACKSON: Thank you.

2 Q Trooper, do you have those events in mind?

3 A I do.

4 Q Your report is dated June 1, 2022, correct?

5 A Correct.

6 Q And reflected in this report are the bullet points
7 of the times that you found of some note in your review
8 of all of the Ring footage from 1 Meadows, correct?

9 A Yes.

10 Q In your report, there is no mention of the footage
11 showing Karen Read arriving home at 12:41 a.m.,
12 correct?

13 A Correct.

14 Q And that's notwithstanding the fact that in
15 Trooper DiCicco's report -- sorry in his handwritten
16 notes -- he makes note of an event at 12:41 a.m.
17 indicating, "I think she arrived home," correct?

18 A Correct.

19 Q So sometime between when Trooper DiCicco wrote his
20 notes and when you wrote your report, that video
21 footage vanished, correct?

22 A There's also no date on Trooper DiCicco's notes.
23 We have many notes from Ring video, so I don't know if
24 he's referencing a different date.

1 Q Well, you're aware that the video footage from
2 12:41 a.m. is gone, correct?

3 A Yes, it's something I've tried to find through
4 Ring for months as well as the video when Ms. Roberts,
5 Ms. McCabe, Ms. Read arrive back at John's and they're
6 looking at the broken taillight. That video is gone as
7 well.

8 Q So at some point while this footage was in
9 Massachusetts State Police custody and being reviewed
10 by Trooper DiCicco, that video existed, didn't it?

11 MR. LALLY: Objection.

12 THE COURT: The objection is sustained. Mr.
13 Jackson, don't wave that again, okay?

14 MR. JACKSON: Yes, Your Honor.

15 Q The fact is notwithstanding Trooper DiCicco's
16 handwritten notes, there is no video from 12:41 on
17 January 29, is there?

18 A No, there isn't.

19 Q Trooper Proctor, would you agree that from the
20 very beginning of your investigation, you treated Karen
21 Read very differently than you treated the Alberts and
22 the McCabes in this case?

23 MR. LALLY: Objection.

24 THE COURT: I'll allow it. Was she treated
25 differently?

1 MR. JACKSON: Absolutely not. Like I said before,
2 we followed the facts and the evidence with an open
3 mind.

4 Q Did you consider her to be, for want of a better
5 phrase, an outsider?

6 A No, not at all.

7 Q Not somebody from Canton?

8 A No, not at all.

9 Q Not family, not friends with the Alberts?

10 A Absolutely not.

11 Q At some point, your review of this case caused you
12 to turn what can be described as a bias into an out and
13 out hatred, would you agree with that?

14 MR. LALLY: Objection.

15 THE COURT: Sustained.

16 Q Did you develop some sort of hatred for Ms.
17 Read --

18 MR. LALLY: Objection.

19 Q -- at any point in your investigation?

20 THE COURT: I'll allow it.

21 A Again, we followed the facts and evidence which
22 showed Ms. Read hit Mr. O'Keefe with her vehicle, and,
23 yes, at times I got emotional because of that and I
24 said some stuff -- texted some things I shouldn't have,
25 but it was based off the evidence.

1 Q As a matter fact you did express your feelings
2 about Ms. Read in yet another text message that we
3 haven't gone over yet today, is that right, on February
4 4, 2022? You might as well turn to tab ten.

5 A Tab ten.

6 THE COURT: It's either the Bates stamp or the --

7 MR. JACKSON: This is triple F as in foxtrot and
8 the Bates stamp is 2526.

9 A Yes, sir.

10 Q Do you see an entry from Courtney Proctor, a text
11 starting, "I didn't give my."

12 A Yes.

13 MR. JACKSON: Request permission to publish, Your
14 Honor?

15 THE COURT: Yes.

16 Q On that date February 4, 2022, your sister texted
17 in relation to some sort of donation that she had
18 given, "I didn't give my name as I didn't want anyone
19 to link me to Michael," meaning you, correct?

20 MR. LALLY: Objection, Your Honor. May we
21 approach?

22 THE COURT: Okay. Take that down.

23 (Sidebar commences:

24 MR. LALLY: Your Honor, I believe when I was going
25 through the text messages with this witness, these are

1 among the group that counsel specifically indicated
2 that they were not going to go over as they would find
3 relevant, and now they're up on the screen and we're
4 going over them.

5 MR. JACKSON: That's not true. He didn't ask
6 about the "hope she kills herself" but I absolutely
7 intended to go over that and we'll go over that.
8 It's --

9 THE COURT: I'm going to allow in the "hopefully
10 she kills herself." Are you objecting to the context
11 then?

12 MR. LALLY: Yes.

13 THE COURT: All right. So what do you need for
14 context? MR. JACKSON: That's all I'm going to ask.
15 It's the next text.

16 THE COURT: So don't put it out.

17 MR. JACKSON: Which one? Don't put the --

18 THE COURT: You can put that in, but just that
19 alone.

20 MR. JACKSON: Fine. I don't need to put it on the
21 screen. That's fine.

22 THE COURT: Okay.
23 end of sidebar.)

24 MR. JACKSON: May I, Your Honor?

25 THE COURT: Yes.

1 Q You see the text from Courtney Proctor, "I did not
2 give my name as I didn't want anyone to link me," --

3 THE COURT: So that that's stricken. That what
4 was just objected to just this one or the whole page
5 goes in.

6 Q You responded to a text message from your sister,
7 correct?

8 A Yes.

9 Q And your response was, "Hopefully she kills
10 herself," correct?

11 A Yes.

12 Q Who's she?

13 A The defendant.

14 Q Ms. Read?

15 A Correct.

16 Q You literally said that you hope that Karen Read,
17 the subject of your investigation, the woman sitting to
18 my left about 7 feet from me, that she would just die,
19 correct?

20 A It's a figure of speech.

21 Q You wanted her -- the figure of speech is you
22 wanted her to kill herself, right?

23 A No, no, it's not.

1 Q Trooper Proctor, Karen Read in your investigation
2 had quickly become a very serious problem for you,
3 hadn't she?

4 MR. LALLY: Objection.

5 THE COURT: Sustained.

6 Q Did you believe that Karen Read was a problem or
7 an issue for your investigation?

8 MR. LALLY: Objection.

9 THE COURT: I'll allow it.

10 A No, absolutely not.

11 Q In your words, quote, all the powers that be want
12 answers ASAP. That's what you texted on January 29,
13 right?

14 A Yes.

15 Q That put a lot of pressure on you, didn't it,
16 Trooper Proctor?

17 A There's a lot of pressure in every case, sir.

18 Q This case involves a Boston cop whose family you
19 were actually connected to, correct?

20 A Loosely.

21 Q Chris Albert, loosely?

22 A Yes.

23 Q Julie Albert, loosely?

24 A Yes.

25 Q Colin Albert, loosely?

1 A Yes.

2 Q Kevin Albert, loosely?

3 A Yes.

4 Q Loose enough to leave his badge and his gun in
5 your cruiser after a night of drinking, right?

6 MR. LALLY: Objection.

7 THE COURT: Sustained.

8 Q You agreed in your group chat that you needed to,
9 quote, make this cut and dry because another cop was
10 involved. Those are your words, right?

11 MR. LALLY: Objection.

12 THE COURT: Where is this?

13 MR. JACKSON: This was referred to in earlier text
14 messages, group chats this morning.

15 THE COURT: So is that right, did you say that,
16 sir?

17 THE WITNESS: I did text that. I don't know if
18 it's in the exact context, but, yes, those were my
19 words.

20 Q But it was in the group chat?

21 A Yes, it was in the group chat.

22 Q Your friends wrote this whole thing, in their
23 words, stinks, correct?

24 A Yes, I interpreted that as a joke.

1 Q You believed, Trooper Proctor, that your life
2 would be much easier if Karen Read was just dead,
3 didn't you?

4 MR. LALLY: Objection.

5 THE COURT: I'll allow it.

6 A No, not at all. As I said, it was a figure of
7 speech. My emotions got the best of me based on, you
8 know, the fact that Ms. Read hit Mr. O'Keefe with her
9 vehicle and left him to me with that figure of speech.

10 Q Well, let's talk about your figures of speech.
11 During the course of your investigation, your figures
12 of speech include the following: She's a bitch.

13 MR. LALLY: Objection.

14 THE COURT: He can have it.

15 Q Is that right?

16 A Yes.

17 Q A whack job, correct?

18 A Yes.

19 Q A retard, right?

20 A Yes.

21 Q Her balloon knot leaks, right?

22 A Yes.

23 Q No ass, correct?

24 A Yes.

25 Q She's fucked according to you, right?

1 A Yes.

2 Q Ass leaker. That was a word that you used, a
3 figure of speech, right?

4 A Correct.

5 Q A girl who shits herself, right?

6 A Correct.

7 Q And then fuck her, correct?

8 A Correct.

9 Q Would you agree, Trooper Proctor, that you have
10 dehumanized Karen Read during the course of your
11 investigation with comments and words like this?

12 MR. LALLY: Objection.

13 THE COURT: I'll give you this one, Mr. Jackson.

14 Q Would you agree with that?

15 A I would say based off that language, yes.

16 Q And you admitted in your own words that the cop
17 homeowner wasn't going to, quote, catch any shit,
18 right?

19 A Correct.

20 Q Because you were out to, quote, make this cut and
21 dry; isn't that right?

22 A The homeowner wasn't going to catch any shit
23 because Mr. Albert had nothing to do with Mr. O'Keefe's
24 death.

1 Q Because you were going to make sure that the case
2 was cut and dry. Those were your words, right?

3 MR. LALLY: Objection.

4 THE COURT: Sustained.

5 Q And, Trooper Proctor, it would be far easier, far
6 easier for you, to pin it on the girl who's just a
7 whack job cunt, in your words, who you hope just kills
8 herself, right?

9 MR. LALLY: Objection.

10 THE COURT: Sustained.

11 MR. JACKSON: Shame on you, sir.

12 MR. LALLY: Objection.

13 THE COURT: All right. So, jurors, disregard
14 that. I've told you before, lawyers can't make
15 comments. They can ask questions. And, Mr. Jackson,
16 you know better than that. MR. JACKSON: I understand.
17 That's all I have.

18 THE COURT: Mr. Lally.

19 MR. LALLY: Thank you, Your Honor.

20 **REDIRECT EXAMINATION**

21 **BY MR. LALLY:**

22 Q Good afternoon, sir.

23 A Good afternoon, sir.

24 Q Now, when you had started with cross-examination
25 the other day you were asked questions about whether or

1 not in August of 2022 you disliked or did not like Mr.
2 Yannetti, correct?

3 A That's correct.

4 Q Why was that?

5 A Well, basically he stood up in open court and
6 spouted lie after lie about me, called me corrupt and
7 conflicted, dragged my name through the mud after I
8 spent ten plus years without a, you know, a single
9 complaint filed against me, and he had no basis and no
10 facts of these wild accusations because there are none.
11 This investigation was done with the utmost integrity,
12 not just by me but my supervisors and other troopers in
13 my office.

14 As well as Mr. Yannetti shows up at my sister's
15 school yesterday in the parking lot, where he's not
16 welcomed or where people are not supposed to be, with
17 one of their witnesses and their private investigator,
18 and a teacher sees this, informs Mr. Yannetti that he
19 can't be there, and instead of saying, okay, and
20 leaving, he asks, "Is Courtney Proctor in the building?
21 Does she work here?" She calls me to see if she was
22 being served --

23 MR. JACKSON: Objection. Objection. Can we
24 approach?

25 THE COURT: Yes.

1 (Sidebar commences:

2 MR. JACKSON: He better have a witness for this.
3 This is absolutely outrageous. That never happened.
4 What he's describing on the witness stand is
5 completely --

6 THE COURT: Mr. Yanetti, I want you to come back
7 here. Come back here.

8 MR. JACKSON: It's an utter lie. Everything he's
9 saying is an utter lie. Mr. Yanetti went out yesterday
10 and interviewed Lucky Loughran. Mr. Yanetti has no idea
11 where his kids go to school. He couldn't care less
12 where his kids go to school. They met in the parking
13 lot so that they could a drive on the route that
14 ultimately is Mr. Loughran is expected to testify to,
15 and this person gets up on the stand and suggests Mr.
16 Yanetti was asking about his minor daughter. That is
17 absolutely insane.

18 THE COURT: I didn't hear that.

19 MR. JACKSON: He just said he started asking about
20 does Courtney Proctor -- does my daughter go --

21 THE COURT: Courtney's the sister.

22 MR. YANETTI: It doesn't matter. It's all made up.

23 MR. JACKSON: He said daughter but then he used
24 the word Courtney.

1 MR. YANETTI: Fortunately, I have witnesses who
2 are going to correct this man.

3 THE COURT: Okay. So no gesticulating for the
4 cameras, Mr. Yanetti.
5 end of sidebar.)

6 THE COURT: Jurors, we're going to take a break.
7 We're going to send you out.
8 (Jury out.)

9 (Sidebar commences:

10 THE COURT: Mr. Yanetti, come over here.

11 MR. JACKSON: Sorry.

12 MR. YANETTI: He committed perjury.

13 THE COURT: I expect some professionalism here
14 while the jury's here. I understand the TV camera's
15 looking right at you.

16 MR. YANETTI: Your Honor, I object --

17 THE COURT: Hold on. Hold on.

18 MR. YANETTI: I object to that characterization.

19 THE COURT: I understand that the camera's there
20 and people are going to see this, and we don't need to
21 do any more than what's going on.

22 MR. YANETTI: I didn't do that for the cameras,
23 Your Honor.

24 THE COURT: I didn't say that, Mr. Yanetti.

25 MR. YANETTI: Okay.

1 THE COURT: And I don't want you being like this
2 in front of the jury.

3 So what are you asking me to do?

4 MR. JACKSON: Strike his entire answer. His
5 entire answer needs to be stricken. By the way, it was
6 nonresponsive to Mr. Lally's question which was --

7 THE COURT: Why do you hate Yanetti?

8 MR. JACKSON: -- Yanetti, which, by the way, his
9 answer preceded, preceded this --

10 MR. YANETTI: Exactly.

11 MR. JACKSON: -- shenanigan.

12 THE COURT: All right. So I will strike --

13 MR. JACKSON: And I am wondering, Judge. I don't
14 mean to interrupt you. I'm sorry.

15 I am wondering, how can Mr. Yanetti be so
16 confident about the answer he was about to give --

17 THE COURT: Okay. You're doing Yanetti and Lally.
18 Are you interspersing them again?

19 MR. JACKSON: God. How could Mr. Lally be so
20 confident, I apologize, in his question to this witness
21 if they've had no communication. I'm very, very
22 troubled by this.

23 THE COURT: Did you expect any of this?

24 MR. LALLY: No. I mean, I'm aware of the incident,
25 but I wasn't asking --

1 MR. JACKSON: How?

2 MR. LALLY: -- about the incident.

3 MR. JACKSON: How? I would ask Mr. Lally he's
4 aware of the incident?

5 MR. LALLY: Because it was said to me by about
6 half a dozen people yesterday as far as Mr. Yanetti
7 being in the parking lot at the Kennedy Elementary
8 School where Courtney Proctor works as a teacher and
9 her two children go. He's also communicated to me that
10 Mr. Yanetti - I was asking questions about whether or
11 not Courtney Proctor was present in the building at the
12 time. I wasn't asking anything about that. I
13 specifically asked about August of 2022.

14 THE COURT: Right. All right. So I'm going to
15 strike all this. Mr. Lally can ask that question, the
16 right question, and as soon as he veers, I'll cut him
17 off. All right. So I will strike this --

18 MR. JACKSON: The only thing I would ask is to
19 show deference to Mr. Yanetti, who was the subject of
20 this ridiculousness, if there's anything else that he
21 believes I need to ask for in terms of this witness
22 being sanctioned or censured.

23 THE COURT: Go ahead, Mr. Yanetti. Why don't you
24 come over to the microphone. Why don't you tell me.

25 MR. JACKSON: I'll trade places.

1 MR. YANETTI: Well, I just want to put on record
2 as an officer of this Court, if you want to swear me
3 in, I will take an oath right now.

4 THE COURT: No, go ahead. Just tell me what you
5 said.

6 MR. YANETTI: I appeared at the Kennedy School at
7 the request of Brian Loughran. I told him I wanted to
8 come down to Canton to take the route with him. I
9 suggested that we meet at the DPW. He said, "I would
10 rather meet at the Kennedy School." I had no idea that
11 Courtney Proctor lived there. I had no idea that her
12 children --

13 MR. JACKSON: Worked there.

14 MR. YANETTI: -- worked there. I had no idea that
15 her children went to school there, and had I known
16 that, I would have rejected that as a meeting place. I
17 had no idea whatsoever. And then we left. The cars
18 were parked in that lot so after we took the route, we
19 came back, and got in the cars and left.

20 I cannot imagine the testimony that just came
21 through this Court. That's all I want to put on
22 record.

23 THE COURT: Okay.

24 MR. YANETTI: In terms of a remedy, striking that
25 last answer I think is sufficient, and I will be

1 questioning Brian Loughran about whether any of that
2 happened. He was there the whole time.

3 THE COURT: Well, not if it's stricken, right?
4 He's your witness.

5 MR. YANETTI: Well.

6 MR. LALLY: That I would have issue with.

7 MR. JACKSON: Puts us in a very tough position
8 because you're right, Judge.

9 THE COURT: You just said you don't mind --

10 MR. LALLY: No, that I would have issue with. If
11 it's going to be stricken and then Mr. Yanetti intends
12 to do it with the witness on the stand, I think that's
13 improper.

14 THE COURT: Improper. I mean, that's what I just
15 said.

16 MR. YANETTI: Well, I suppose I could call my
17 investigator to say when we showed up there, did we
18 converse with anyone other than Brian Loughran.

19 THE COURT: Yeah, I'm not going to weigh in on
20 that now.

21 MR. YANETTI: Yeah, all right. Okay. That's fine.

22 THE COURT: All right.

23 MR. YANETTI: To answer your -- I appreciate, Mr.
24 Jackson, you giving me this opportunity. I don't have
25 anything to add.

1 MR. JACKSON: Thank you, Your Honor. That
2 satisfies us.

3 THE COURT: Okay. All right. And you get to ask
4 the question. Maybe you highlight for him that he
5 answers this particular question, listens to it, and
6 answers it.

7 MR. LALLY: Understood.

8 THE COURT: Okay.
9 end of sidebar.)

10 THE COURT: All right. We'll bring the jurors in.
11 (Jury in.)

12 THE COURT: Jurors, I am striking that last
13 answer. It was probably a partial answer cut off. I'm
14 striking it completely. Disregard it. If you took
15 notes, cross the notes out. You're not to consider it
16 in any way. It is completely stricken from the record.

17 And, Trooper, I would suggest you listen to the
18 question being asked of you before your answer it.

19 THE WITNESS: My apologies, Your Honor.

20 THE COURT: Keep your voice up, Mr. Lally.

21 Q Trooper Proctor, as far as you were asked about
22 text messages that occurred in August of 2022, in which
23 you indicated that you did not like Mr. Yannetti,
24 correct?

25 A Correct.

1 Q And so at the time of that text message that was
2 sent in August of 2022, why was that?

3 A In August of 2022 why was that?

4 Q Yes.

5 A The reasons I laid out - the false accusations of
6 being conflicted and corrupt spouted in open court,
7 which there is zero evidence of. As I said, I stand by
8 the integrity of this investigation as well as every
9 trooper and supervisor in my office.

10 Q Were there also motions filed by Mr. Yannetti or
11 by counsel containing photographs of yourself and some
12 children?

13 A Yes.

14 Q And what, if anything, were the allegations in
15 regards to the children that were depicted in those
16 photographs?

17 A So the photograph was taken in my parents'
18 backyard --

19 MR. JACKSON: Objection, Your Honor.

20 THE COURT: The objection is overruled.

21 A My parents' backyard at a pool party. There's
22 some little kids in the photo. Defense counsel kept
23 insinuating that those were the McCabe's children when
24 in fact they were my family, my cousins.

1 Q Have you at any point in time ever met any
2 children of the McCabe's?

3 A No, sir.

4 Q In the course of this investigation as it was sort
5 of alleged in cross-examination, did you essentially
6 pick a suspect and then try to have the evidence fit
7 that?

8 MR. JACKSON: Objection.

9 THE COURT: To form.

10 MR. JACKSON: Leading.

11 THE COURT: In that form it's stricken. You're
12 not allowed to ask it that way, Mr. Lally.

13 Q How did you conduct this investigation, you and
14 the other troopers in your office?

15 A From the start of this investigation with an open
16 mind. Like I said earlier, we didn't know what we had.
17 It's a possible medical. So as the day went on and we
18 collected more evidence and developed compelling
19 evidence against Ms. Read.

20 Q Now with reference to this investigation, it
21 continued after January 29, 2022, when you had those
22 text communications with your friends, correct?

23 A Yes.

1 Q Was there additional information that you compiled
2 over the course of that investigation following January
3 29, 2022?

4 A I'm sorry. Say that again, please.

5 Q Following that date of those text messages on
6 January 29, 2022 --

7 A Yes.

8 Q Was there additional information that was gathered
9 over the course of your investigation by yourself or
10 other troopers involved in the investigation?

11 A Yes.

12 Q And from that additional information that was
13 gathered, what, if any, information that was gathered
14 throughout the course of the investigation indicated
15 that anyone besides Ms. Read had anything to do with
16 Mr. O'Keefe's death?

17 A All the information gathered after that date
18 indicated no one else was responsible for Mr. O'Keefe
19 death.

20 Q And, sir, you were asked some questions on cross-
21 examination about testimony in a prior proceeding and
22 shown specifically page 01563, correct?

23 A Yes.

24 MR. LALLY: Your Honor, may I approach?

25 THE COURT: Yes.

1 Q Sir, I'm giving you 01562, 63, and 64, and ask you
2 to read those and look up at me.

3 THE COURT: What were the numbers again, Mr.
4 Lally?

5 MR. LALLY: One-five-six-two, six-three and six-
6 four, I believe.

7 THE COURT: Thank you.

8 MR. LALLY: May I approach, Your Honor?

9 THE COURT: Yes.

10 Q Trooper, after reviewing those three pages, is
11 there now more context to what you were just asked
12 about on one specific pages of that testimony?

13 A Yes.

14 Q And those were questions related to what you had
15 told and what you had informed other people within the
16 office or your supervisors in relation to relationships
17 with both the McCabes and the Alberts, correct?

18 A Correct.

19 Q And in the course of that testimony, did you relay
20 to that body the same testimony you just relayed to
21 this jury in regard to photographs of children and
22 defense counsel attributing those to being the McCabe's
23 children which they were not?

24 A Yes.

1 Q Now, you were asked some questions by Mr. Jackson
2 in regard to what you knew or why your focus was not on
3 Brian Albert's later on in the evening of January 29,
4 2022, correct?

5 A Correct.

6 Q And why was that? Why was your focus not on Brian
7 Albert at the time?

8 A There was just no evidence that Mr. Albert was
9 involved in any way. Like I said before the -- from
10 witness interviews, the statements Ms. Read provided to
11 witnesses, the one shoe left at the scene, the
12 taillight pieces found underneath the snow that were
13 dug out by the SERT team, the injuries to Mr. O'Keefe,
14 the one shoe at the hospital that was observed, her
15 statements to us, Sergeant Bukhenik and I while we
16 interviewed her, clearly the broken taillight, and the
17 fact that leaving Brockton instead of going to Dighton,
18 she backtracked to go to Canton to retrieve her vehicle
19 and then go double back to go to Dighton, which I found
20 odd.

21 Q Now, if at any point in time over the course of
22 your investigation you had evidence which led -- which
23 led you to believe that Mr. Albert was involved in the
24 death of Mr. O'Keefe, what would you have done?

25 MR. JACKSON: Objection.

1 THE COURT: Ask it differently.

2 Q With regard to -- again, you testified beyond
3 January 29. At any point in your investigation, did
4 you find any information or evidence leading you to
5 believe that Brian Albert was involved in the death of
6 John O'Keefe?

7 MR. JACKSON: Objection.

8 THE COURT: I'll allow it.

9 A No.

10 Q If you had found information leading to that
11 conclusion or evidence leading to that, what would you
12 have done?

13 MR. JACKSON: Objection.

14 THE COURT: I'm going to allow it.

15 A Myself or members of my office would have pursued
16 that.

17 Q Regardless of his position, correct?

18 A Regardless of what he does for a living --
19 profession.

20 MR. LALLY: Your Honor, may I approach?

21 THE COURT: Yes. My apologies, Your Honor.

22 Q Sir, I'm showing you a document I showed you the
23 other day. Do you recognize that?

24 A That is text communications between me and my high
25 school buddies.

1 Q And, sir, if I could direct your attention within
2 there to page 2535.

3 A Yes, sir.

4 Q And you were asked some questions about text on
5 the page, but also there's a text on that page that
6 begins with they arrived at house together, correct?

7 A Correct.

8 Q And what is the date and time associated with that
9 text message that you sent?

10 A That was sent on January 29, 2022, at 11:00 p.m.

11 Q And what is the content and what did you send to
12 that group that text message?

13 A The message reads, "They arrived at the house
14 together, got into an argument. She was driving and
15 left."

16 Q Okay. So that's also information that you had late
17 in the evening of January 29, 2022, correct?

18 MR. JACKSON: Objection.

19 THE COURT: To the form, that's sustained.

20 Q With respect to that information you conveyed in
21 that text message, when did you learn it?

22 A During the course of the day on the 29th.

23 MR. LALLY: May I approach, Your Honor, to
24 retrieve?

25 THE COURT: Yes.

1 Q Now, you were asked some questions about people
2 that you spoke to on the 29th, correct?

3 A Yes.

4 Q And that included Brian Albert, Jennifer McCabe,
5 Matthew McCabe, Kerrie Roberts; is that correct?

6 A Trooper DiCicco and Trooper Dunn interviewed Ms.
7 Roberts.

8 Q And my apologies. When I was saying you, I meant
9 collectively?

10 A Yes.

11 Q But you specifically yourself and Sergeant
12 Bukhenik, you also spoke with the defendant on January
13 29, correct?

14 A Correct.

15 Q And that would have been prior to any of the text
16 communications that were contained within that chat
17 with your friends, correct?

18 A Correct.

19 Q Let me ask you something about charging decisions.
20 Is that something that you make in this case or in any
21 case?

22 A I don't make any charging decisions. We're
23 essentially factfinders.

1 Q So as far as what Ms. Read was charged with or
2 when she was charged with it, that's not something
3 that's within your purview, correct?

4 A No, not at all.

5 Q Now, specifically you were asked some questions
6 about some text messages between yourself and Trooper
7 DiCicco in regard to the medical examiner, correct?

8 A Correct.

9 Q And those occurred in April of 2022; is that
10 correct?

11 A Yes.

12 Q Was the defendant Ms. Read charged with murder on
13 April of 2022?

14 MR. JACKSON: Objection.

15 THE COURT: I'll allow it.

16 A No.

17 Q That wasn't until June of 2022, correct?

18 A That's correct.

19 Q And that was at the conclusion a grand jury; is
20 that correct?

21 MR. JACKSON: Objection.

22 THE COURT: Sustained.

23 Q And you're aware that there was a grand jury in
24 this case?

25 MR. JACKSON: Objection. I'll withdraw that.

1 THE COURT: Okay. You can answer that.

2 Q Yes.

3 Q And are you aware of certain witnesses who
4 testified at the grand jury?

5 MR. JACKSON: Objection.

6 THE COURT: I'll allow that.

7 A Yes.

8 Q Are you aware that Dr. Spordi-Bello testified at
9 the grand jury?

10 MR. JACKSON: Objection.

11 THE COURT: I'll allow that.

12 A Yes.

13 Q And so falls to reason then that the defendant
14 wasn't charged with murder until after the grand jury
15 was concluded and Dr. Spordi-Bello had testified before
16 that grand jury, correct?

17 MR. JACKSON: Objection.

18 THE COURT: Sustained.

19 Q Now, the Albert family that you were familiar with
20 some members of, that's not an entity, correct?

21 A No.

22 Q Individual members of a family, some you know,
23 some you may not know, correct?

24 MR. JACKSON: Objection.

1 THE COURT: Sustained. Watch your form, Mr.
2 Lally.

3 MR. LALLY: Certainly, Your Honor.

4 Q How many members of the Albert family did you know
5 when you started this investigation in January -- or
6 when you received this call on January 29, 2022?

7 A Julie, Chris Albert, Colin, and Kevin Albert.

8 Q Now, you were asked some questions about
9 interviewing Julia Albert and Chris Albert at their
10 home on February 10, correct?

11 A Yes.

12 Q Now, with respect to that date, had you ever been
13 to that home prior to February 10?

14 A I've not been to that -- this kind of their new
15 home. I had never been to their new home or their
16 previous home either.

17 Q Now as far as conversations with either Julie or
18 Chris Albert, when was the last time you talked to them
19 before you interviewed them on February 10?

20 A I believe I had reached out to Julie to coordinate
21 the interview, but prior to this case there was that
22 one random text message she sent me and my sister when
23 I was going on a family ski trip. They weren't a part
24 of it. She wanted me to take a video of my sister
25 skiing.

1 Q That was in February of 2022, correct?

2 A Yeah.

3 Q So my question is prior to February 10, 2022,
4 prior to any arrangements to schedule an interview for
5 February 10, when was the last time that you spoke to
6 either Julie Albert or Chris Albert, if you know?

7 A I don't know. I can't remember.

8 Q Now with regard to text message in regard to
9 skiing in late February of 2022, you were shown that
10 text message, correct?

11 A Yes.

12 Q Was there any other response from you?

13 A No.

14 Q Would you have any further communication with
15 Julie Albert after that interview on January 29, 2022,
16 related to this investigation?

17 A I recall the serving her for grand jury. I know
18 she wanted to kind of have an idea of what the process
19 was like. So there's communications regarding that.

20 Q And was that something that was solely done with
21 Julie Albert or other witnesses or what?

22 A All the witnesses that were called in the grand
23 jury. You know, it's unusual for, you know, the
24 majority of civilians to be called in a grand jury. So

1 they want -- obviously, they have questions about the
2 process.

3 Q Now as far as babysitting for your children, is
4 that something that Julie Albert ever did?

5 A No.

6 Q And as far as those text communications between
7 yourself and your sister regarding that, was that
8 something that you had asked for or something your
9 sister had suggested?

10 A Yeah, my sister had suggested that. We never
11 followed up with having Julie watch my kids.

12 Q Now, you were asked some questions about text
13 messages with your sister Courtney, correct?

14 A Correct.

15 Q And I believe a couple of times you had used the
16 term -- well, let me ask you this first.

17 With regard to from January 29 throughout at least
18 January/February of 2022 this was a -- this case became
19 something that was on the news on a fairly regular
20 basis, correct?

21 A News and social media, yes.

22 Q And so when you were using the term in describing
23 what you spoke to your sister about as far as
24 newsworthy, what did you mean by that?

1 A You know, my sister lives in Canton, so there's a
2 lot of, you know, as well as on the news and social
3 media stuff that was being discussed in those
4 platforms.

5 Q Now, as far as the discussions that you had with
6 regard to your sister, how would you describe or how
7 would you characterize the type of information that you
8 shared with her, if any?

9 A General information. Nothing specific about the
10 case. Q Now, you were also asked about a specific text
11 from your sister on January 30. It started out with I
12 believe it was Jesus Christ; is that correct?

13 A Yes.

14 Q And that was in reference to the body of Mr.
15 O'Keefe being found on Brian Albert's lawn, correct?

16 A Correct.

17 Q And so she's asking you about that on January 30,
18 correct?

19 A Yes.

20 Q So fair to reason that that wasn't something you
21 shared with her prior to January 30, correct?

22 A Correct.

23 Q It was something that you hadn't share with her at
24 all at that point that you received that text
25 communication, correct?

1 A Correct.

2 MR. JACKSON: Objection.

3 THE COURT: Sustained as to you form. Watch how
4 you ask these questions, Mr. Lally, he's your witness.

5 MR. LALLY: Yes, Your Honor.

6 Q With regard to that information as far as who the
7 homeowner was, what, if anything, had you shared with
8 your sister Courtney prior to you receiving that text
9 from her indicating her knowledge of it?

10 A Yeah, I don't recall sharing anything with -- in
11 regards to the homeowner.

12 Q Now, in regard to any issues of a gift or a
13 request of a gift, how would you characterize that?
14 Was that serious? Was that in jest? How would you
15 characterize that?

16 MR. JACKSON: Objection.

17 A I didn't take --

18 THE COURT: I'll allow it.

19 A I didn't take that offer seriously, and as I had
20 mentioned I believe on Monday that I didn't ask for a
21 gift. I never received one. I kind of said, you know,
22 give my wife a gift. She had been home for about ten
23 straight nights with the boys. We had another homicide
24 a week before so that was my response, "Get Elizabeth
25 one." And she never received one.

1 Q Now, you were asked some questions about Colin
2 Albert, correct?

3 A Correct.

4 Q Now, as far as -- what, if any, information did
5 you have as far as Colin Albert and his being at 34
6 Fairview at the same time as anyone from -- coming back
7 from Waterfall?

8 A It was my understanding Colin arrived later on to
9 just see his cousin who was his birthday. He didn't
10 stay that long, maybe an hour, a little over an hour,
11 and as he was leaving I think he ran into his aunt and
12 uncle as his ride had arrived out front and left at
13 some time around 12:10 a.m.

14 Q Was that information that you had prior to your
15 interview with Colin Albert?

16 A Yeah, we knew Colin wasn't at the house. The time
17 was provided by Colin.

18 Q At any point in time in your investigation, what,
19 if any, evidence did you ever receive that Colin Albert
20 was at 34 Fairview at the same time as Mr. O'Keefe or
21 the defendant?

22 A Based on Mr. O'Keefe's cell phone location data
23 using his Waze app, Colin Albert is leaving around like
24 12:10 a.m. Mr. O'Keefe is about a half a mile away at
25 12:20 a.m. So they did not cross paths.

1 Q Now, Mr. Jackson was asking about some people as
2 far as interviews later in October or so of 2022 or
3 beyond. You were given five names as far as Brian
4 Albert, Junior, Julie Nagle, Ms. Kent, Ms. Fabiano, Ms.
5 Alba, and Ms. Levinson, and Colin Albert, correct?

6 A Yes.

7 Q And then you were asked about three people that
8 you had interviewed and then you were asked if there
9 was only one person left that being Colin Albert,
10 correct?

11 A Correct.

12 Q Does that math match up as far as five people,
13 three given, and only one person not interviewed?

14 A No.

15 Q Now, with reference to Ms. Kent, Ms. Fabiano, and
16 Ms. Albert, to your knowledge have they been
17 interviewed at any point in time?

18 A No.

19 Q And why not?

20 A They weren't present for when the adults had
21 arrived back from the Waterfall.

22 Q So they had left 34 Fairview like Colin Albert
23 prior to the Waterfall people coming in?

24 MR. JACKSON: Objection.

25 THE COURT: Sustained in that form.

1 MR. LALLY: Sure.

2 Q What, if any, information did you have with
3 regards to the whereabouts of Ms. Kent, Ms. Fabiano,
4 Ms. Alba, and Colin Albert in relation to 34 Fairview
5 and the arrival of people from the Waterfall?

6 A They had left the residence.

7 Q So with respect to Colin Albert, why was it that
8 he was interviewed and not Ms. Kent, Ms. Fabiano, and
9 Ms. Albert?

10 A Colin was falsely accused of --

11 MR. JACKSON: Objection.

12 THE COURT: Can you answer that same question Mr.
13 Lally asked you differently?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Okay. Go ahead. Answer it differently.

16 A Colin was the subject of a third-party culprit
17 where -- that had no evidence to back that up.

18 MR. JACKSON: Objection.

19 THE COURT: I'm going to allow that.

20 A That had no evidence to back that up that he was
21 involved whatsoever. My office and myself felt the
22 need to interview Colin, sit him down, and get his
23 story or his facts of that evening. So that's why we
24 interviewed him at that date and time later on.

1 Q And when you say we, do you recall who was present
2 with you when you interviewed Colin Albert?

3 A Trooper Zachary Clark.

4 Q Now, are you aware of Sergeant Bukhenik getting
5 screenshots from both Colin Albert and from Ms. Ally
6 McCabe in relation to text communications they had
7 about picking up Colin Albert from 34 Fairview on
8 January 29?

9 A Yes.

10 Q You were asked some questions about Ms. McCabe's
11 cell phone; is that correct?

12 A Yes.

13 Q And as far as any material on that phone, are you
14 an expert when it comes to cell phone extractions and
15 what different material may mean within a Cellebrite
16 extraction?

17 A No, that's left to Trooper Guarino in our office.

18 Q And are you aware of reports regarding those
19 searches from Trooper Nicholas Guarino, a Ms. Jessica
20 Hyde, and a Mr. Ian Whiffin?

21 A I am aware of those, yes.

22 Q And those are people who are experts -- those are
23 people who have special knowledge or specialized
24 knowledge as it relates to Cellebrite technology that
25 you do not, correct?

1 MR. JACKSON: Objection.

2 THE COURT: Form of the question. It's sustained.

3 Q What if any knowledge are you aware of Trooper
4 Nicholas Guarino, Ms. Jessica Hyde, and Mr. Ian Whiffin
5 having with respect to Cellebrite or cell phone
6 technology that you do not?

7 MR. JACKSON: Objection.

8 THE COURT: I'm allowing it under *Bowden*.

9 MR. JACKSON: Your Honor, may we approach?

10 THE COURT: Sure.

11 (Sidebar commences:

12 THE COURT: What's your objection, Mr. Jackson?

13 MR. JACKSON: It's pure hearsay. How he -- you're
14 asking -- Mr. Lally is asking this witness to testify
15 about the level of knowledge and expertise that three
16 other people have that he would have no way of knowing
17 unless they've told him or he's read it somewhere.
18 It's hearsay. He has no information --

19 THE COURT: Well, Guarino works with, right, or
20 Gallerino.

21 MR. JACKSON: Even Gallerino, unless he's the
22 person with the knowledge, he can't testify to what his
23 -- Guarino's education, background, and training is in
24 terms of Cellebrite, et cetera. Mr. Lally can get that
25 through the actual witnesses, not this guy.

1 THE COURT: What do you say, Mr. Lally?

2 MR. LALLY: I would say, Your Honor, is that he
3 can testify that, you know, the implication was made
4 during cross-examination that essentially - and I think
5 this does come in under *Bowden*, that the witness
6 himself never reviewed Life360 or the Cellebrite
7 extraction or have knowledge about that, and my
8 question simply is there are people that have knowledge
9 that far exceeds your own and they looked at it, and
10 you're aware that they looked at it.

11 MR. JACKSON: The only way he would know that is
12 through hearsay.

13 THE COURT: Yeah.

14 MR. JACKSON: Number one, that they looked at it.
15 Number two, what their education, training, and
16 background is.

17 THE COURT: He's not going to go through all that,
18 right?

19 MR. LALLY: No.

20 THE COURT: I'm letting it in. This is the
21 double-edged sword part of *Bowden*.

22 MR. JACKSON: It's not. It's evidentiary.

23 THE COURT: I disagree with you.

24 MR. JACKSON: Okay.

25 end of sidebar.)

1 MR. LALLY: May I proceed, Your Honor?

2 THE COURT: Yes.

3 Q Let me rephrase that just a little. As far as
4 you're aware that Trooper Nicholas Guarino, Ms. Jessica
5 Hyde and Mr. Ian Whiffin have all looked at Ms.
6 McCabe's Cellebrite and extraction information,
7 correct?

8 A Yes.

9 Q And their knowledge, their specialized knowledge,
10 in regard to those areas exceeds your own, correct?

11 A Yes.

12 Q Now, as far as your conversations with Kevin
13 Albert, how would you characterize those in relation to
14 this investigation?

15 A They had nothing to do with this investigation.
16 Like I said, we were working a cold case together. We
17 also work on other cases together that, you know,
18 unattended deaths that I'll respond to or a potential
19 suicide or an overdose in the town of Canton that I'll
20 respond to, but the topic of our conversations were in
21 regards to the cold case or unresolved case that we
22 were working together.

23 MR. LALLY: Your Honor, may I approach?

24 THE COURT: Yes.

1 Q I'm handing you a document like we did the other
2 day. Do you recognize that?

3 A Yes.

4 Q Picture?

5 A I do.

6 Q What do you recognize that to be?

7 A Text communication with Kevin Albert.

8 Q And, sir, if I could direct your attention to
9 Bates stamps pages of 2600 and 2601?

10 A Yes, sir.

11 Q Now, in regard to activities on that particular
12 date you had indicated that you had conversations with
13 Kevin Albert about working a cold case from the town of
14 Canton, correct?

15 A Yes.

16 Q And specifically on that date, where did the two
17 of you go?

18 A I recall going down to the Cape to interview at
19 least one person of interest.

20 Q And that was down in the town of Sandwich to be
21 specific; is that correct?

22 A Yes.

23 Q Now, in reference to Kevin Albert leaving his
24 badge in your card; do you recall that?

25 A I do.

1 Q If I could direct your attention to page 2602. And
2 what, if any, text communication is contained on that
3 page as far as you asking Kevin Albert any questions
4 about his address?

5 A After I informed Kevin Albert I had located his
6 badge, I follow up what's your address. I'll drop it
7 off after the gym.

8 Q You're asking his address because you don't know
9 his address, correct?

10 MR. JACKSON: Objection.

11 THE COURT: Sustained.

12 Q Why are you asking him for his address?

13 A I've never been to his house, and I don't know
14 where he lives.

15 Q So you're so close with him that you don't know
16 where his house is, correct?

17 MR. JACKSON: Objection.

18 THE COURT: Sustained.

19 MR. LALLY: May I approach just to retrieve, Your
20 Honor?

21 THE COURT: Yes.

22 Q Now, Trooper, you were asked some questions about
23 Ring videos from 1 Meadow Avenue, Mr. O'Keefe's home;
24 is that correct?

25 A Yes.

1 Q To be clear, did you delete any Ring videos from
2 Mr. O'Keefe's account either on his app, on his phone,
3 or from the materials that you received pursuant to the
4 search warrant?

5 A Absolutely not.

6 Q Now, when you saw that there were Ring videos
7 missing from times that you expected videos to be,
8 specifically what I'm asking about is Ms. Read or the
9 defendant's arrival at the home after leaving Fairview
10 Road, and Ms. McCabe, Ms. Roberts, and the defendant's
11 departure from 1 Meadows to Fairview Road later on that
12 morning, what did you do?

13 A I reached out to Ring several different times.
14 They informed me if the video is deleted there is no
15 digital footprint of that. It's essentially kind of
16 gone forever.

17 Q And with respect to that timeframe, what, if any
18 other additional steps, did you take to try to retrieve
19 that video? Was there a second search warrant, sir?

20 A Yes.

21 Q You were looking for additional information from
22 that same Ring video, correct?

23 MR. JACKSON: Objection.

24 THE COURT: Sustained.

1 Q What, if anything, were you looking for in that
2 second search warrant?

3 A Additional video.

4 Q You were asked some questions about notes from
5 Trooper DiCicco, correct?

6 A Correct.

7 Q As far as that 0041 note, do you know what that
8 means?

9 A That just tells me it's a time.

10 Q And do you know specifically whether or not that
11 is something Trooper DiCicco saw or something that
12 Trooper DiCicco was looking for?

13 A That's something Trooper DiCicco could answer for.

14 MR. LALLY: May I have just one moment, Your
15 Honor?

16 THE COURT: Yes.

17 Q Sir, you were asked some questions about sallyport
18 video at the Canton police station, correct?

19 A Yes.

20 Q When you arrived at the sallyport garage of the
21 Canton police station sometime around or shortly after
22 5:30 p.m., correct?

23 A Yes.

24 Q Now that 5:30 p.m. time, is that before or after
25 5:07 a.m.?

1 A It's after.

2 Q And 5:07 a.m. is when Exhibit 6 video number I
3 believe 153 with the defendant backing out the garage
4 when you testified on Monday you observed some damage
5 to the taillight, correct?

6 A Correct.

7 Q And you're aware of some other Ring video from Mr.
8 O'Keefe's house showing the defendant, Ms. Roberts, and
9 Ms. McCabe arriving at his house in which you can see
10 damage to the right passenger taillight, correct?

11 A Correct.

12 Q Are you aware of cruiser camera video from the
13 Canton police station police department, specifically
14 Lieutenant Ray, going to 1 Meadows Ave. at 8:22 in the
15 morning on the 29th in which you can also observe
16 damage to the taillight?

17 MR. JACKSON: Objection.

18 THE COURT: Sustained as to the form.

19 Q As far as 8:22 in the morning, what if any video
20 from 1 Meadows Avenue are you aware of depicting the
21 defendant's taillight?

22 A Canton Police Department went to conduct a well-
23 being check. In on the dash cruiser camera you can see
24 the back of Ms. Read's vehicle and the right taillight
25 to be broken and missing pieces.

1 Q And as far as your time at the home in Dighton the
2 vehicle -- the defendant's vehicle was towed from that
3 location on that day, correct?

4 A Correct.

5 Q And what if any video are you aware from that
6 driveway which depicts the right rear passenger side
7 taillight of the defendant's vehicle?

8 A As the vehicle is being put on the tow truck, you
9 can make out that there is some pieces missing.

10 Q Now, sir, if I could turn you back to those text
11 messages with your friends, January 29, 2022. With
12 that time in mind at that point in time -- well, let me
13 ask before.

14 As far as all those other videos we talked to, all
15 of those videos precede your time in the sallyport
16 garage at 5:30 p.m. on January 29, correct?

17 A Correct.

18 Q Now with reference to you mentioned in your
19 testimony the other day earlier that at some point in
20 time later in the day or early in that evening, you had
21 met for a debriefing with yourself and the other
22 troopers involved in the investigation on January 29;
23 is that correct?

24 A Yes.

1 Q Fair to say the information that had been
2 collected by yourself and the other troopers on January
3 29, you had that in mind or you were aware of that when
4 you were involved in these text communications with
5 your friends, correct?

6 A Yes.

7 Q So were you -- at that time that you're texting
8 with your friends, you had seen the defendant's
9 vehicle?

10 A Correct, yes.

11 Q And you had seen the damage to the taillight,
12 correct?

13 A Yes.

14 Q And you are aware that Lieutenant Tully and the
15 SERT team had conducted a search around 34 Fairview and
16 recovered Mr. O'Keefe's sneaker and a taillight?

17 MR. JACKSON: Objection.

18 THE COURT: Sustained as to form.

19 Q What if anything were you aware of in regard to
20 Lieutenant Tully during with the SERT team at 34
21 Fairview earlier that day?

22 A Detective Lieutenant Tully conducted and the SERT
23 team conducted a search, discovered several pieces of
24 broken taillight pieces as well as Mr. O'Keefe's
25 missing shoe.

1 Q And the shoe that Lieutenant Tully and the SERT
2 team had retrieved, what if anything did you observe in
3 relation to that and the shoe you and Sergeant Bukhenik
4 had retrieved from the Good Samaritan Hospital?

5 A There were both -- they were a match. They were
6 both black Nike sneakers with the white logo.

7 Q Now you had talked to first responders, correct?

8 A Yes.

9 Q And that included Firefighter Flumatti?

10 A Correct.

11 Q And that included Sergeant Goode?

12 A Yes.

13 Q You had done interviews with regard to Brian
14 Albert, correct?

15 A Yes.

16 Q Jennifer McCabe, correct?

17 A Correct.

18 Q Matthew McCabe, correct?

19 A Yes.

20 Q The defendant?

21 A Yes.

22 Q And other troopers from your unit had also
23 interviewed Kerrie Roberts, correct?

24 A Yes.

1 Q So you're aware of statements that were attributed
2 by Ms. Roberts and Ms. McCabe to the defendant as far
3 as what she told them earlier that morning?

4 A Yes.

5 Q And you're aware that statements that Ms. McCabe
6 and Ms. Roberts had made to troopers in regard to what
7 they had observed that morning?

8 A Yes.

9 Q Now, were you aware that both Ms. McCabe and Ms.
10 Roberts indicated in interviews on June 29 that when
11 they got to 34 Fairview Road they could not see Mr.
12 O'Keefe's body, however the defendant sort of bolted
13 out of the back seat of the vehicle directly over to
14 Mr. O'Keefe's body?

15 MR. JACKSON: Objection.

16 THE COURT: You can answer differently, Mr. Lally.

17 Q With respect to the statements from Ms. McCabe and
18 Ms. Roberts with regard to their arrival at 34 Fairview
19 at around 6:00 a.m. in the morning, what, if anything,
20 stood out to you or were you aware of in relation to
21 those statements?

22 A From those statement as Ms. Roberts was driving
23 down Fairview, Ms. McCabe was in the passenger seat,
24 Ms. Read was in the back. Obviously, white out
25 conditions. As they're coming down, like, that slight

1 hill getting just before the left side of the property,
2 Ms. McCabe and Ms. Roberts indicated that Ms. Read
3 said, "There he is. I see him. I see him." And Ms.
4 Read -- I'm sorry -- Ms. McCabe and Ms. Roberts didn't
5 know what Ms. Read was talking about. They stopped the
6 car. Ms. Read ran directly over to John O'Keefe's
7 body, and even when Ms. Read had exited the vehicle,
8 Ms. McCabe and Ms. Roberts still didn't know what was
9 going on and what she was running to.

10 Q Now, were you aware from your conversation with
11 Firefighter Flumatti that the defendant stated I hit
12 him to -- in the presence of Firefighter Flumatti
13 earlier that morning?

14 A Yes.

15 Q And were you also aware of statements the
16 defendant made to other first responders about her
17 being or getting into an argument with Mr. O'Keefe as
18 she was dropping him off at 34 Fairview indicating the
19 last time she saw him?

20 A Later on, subsequent interviews.

21 Q So at the time that you're sending these text
22 communications within this group chat in the later part
23 of the evening of January 29, 2022, what is it that you
24 did know in relation to your investigation with regard
25 to Ms. Read, the defendant, and/or anyone else?

1 A All right. So we knew the last person seen with
2 Mr. O'Keefe alive was Ms. Read. We knew they were
3 traveling to Fairview Road. Witnesses stated they saw
4 an SUV out front of the house that went from one side
5 to the other. Ms. McCabe was texting John, "Park
6 behind me," things of that nature. John never went
7 into the house. And then the following morning, Ms.
8 Read, Ms. Roberts, and Ms. McCabe located Mr. O'Keefe
9 on the front lawn. I observed those injuries at the
10 hospital, the one sneaker. Later on in the day, the
11 SERT team along with Detective Lieutenant Tully found
12 broken taillight pieces that matched Ms. Read's
13 taillight as well as the missing sneaker that matched
14 Mr. O'Keefe's vehicle, some inconsistent statements
15 that Ms. Read had provided to Sergeant Bukhenik and I.

16 Q So at the time that you made those comments,
17 disparaging comments in regard to Ms. Read in the
18 context of those communication with your friends, as
19 inexcusable, as unprofessional as those comments are,
20 the information that you had was that Ms. Read had
21 struck Mr. O'Keefe with her vehicle --

22 MR. JACKSON: Objection.

23 THE COURT: Yeah, you got to watch the form, Mr.
24 Lally. That's sustained.

1 Q At the time that you made those inexcusable and
2 unprofessional comments, what did you believe the
3 defendant had done to Mr. O'Keefe?

4 A I believed based on all the physical evidence and
5 facts, Mr. O'Keefe got out of that vehicle holding that
6 cocktail glass he walked out of the Waterfall bar with,
7 Ms. Read pulled ahead and then backed into him and
8 struck him with her vehicle and then left.

9 Q And then came back five and half hours later,
10 correct?

11 A Correct.

12
13 MR. LALLY: Nothing further.

14 THE COURT: Mr. Jackson.

15 MR. JACKSON: Very briefly, Your Honor.

16 **RECROSS-EXAMINATION**

17 **BY MR. JACKSON:**

18 Q So you think that your assessment, personal
19 assessment, that Karen Read had struck this officer
20 with a car gave you license to call her a cunt?

21 MR. LALLY: Objection.

22 THE COURT: I'll allow it.

23 Q Right?

24 A Based on the evidence, sir, my emotions got the
25 best of me. So it was in poor taste. Yes. It was

1 inappropriate, juvenile, but it was my emotions had
2 gotten the best of me.

3 Q And you called her a whack job?

4 A Yes.

5 Q Gave you license to call her that, too?

6 A Yes.

7 Q Gave you license to say to your friends, oh, no,
8 no, no, she's fucked, right?

9 A That's what I wrote.

10 Q Gave you license to say that she's a retard?

11 A Again, another disgusting comment.

12 Q Sir, you had an agenda from moment one, did you
13 not?

14 MR. LALLY: Objection.

15 THE COURT: Sustained.

16 Q Did you have an agenda?

17 MR. LALLY: Objection.

18 THE COURT: Sustained. Same question.

19 MR. JACKSON: I thought it was a good one the
20 first time.

21 Q So the fact that you believed personally that your
22 narrative was that she hit him with a car, you get to
23 talk about her leaky balloon knot, right?

24 MR. LALLY: Objection.

25 THE COURT: Sustained.

1 Q You indicated on cross-examination that you saw a
2 video at 8:22 a.m. with some damage to Ms. Read's right
3 rear taillight, correct?

4 A Yes.

5 Q Is 8:22 before or after 5:07 a.m.?

6 A After.

7 Q You also said that you had no idea where Kevin
8 Albert lived, right?

9 A Correct.

10 Q But you did say about getting his badge to him
11 after that drunken night with him that you'd just leave
12 it in your mailbox, right?

13 MR. LALLY: Objection.

14 THE COURT: I'll allow it.

15 A Yes, my mailbox.

16 Q Yeah. So obviously knew where you lived?

17 A Yes.

18 Q And then you said, "There is no evidence
19 whatsoever," your words, no evidence whatsoever. You
20 talked about Brian Albert, Brian Higgins, Colin Albert,
21 no evidence whatsoever that they were involved in the
22 death of John O'Keefe, right?

23 A Correct.

24 Q Trooper Proctor, you're the one responsible for
25 gathering the evidence, correct?

1 MR. LALLY: Objection.

2 THE COURT: I'll allow it.

3 Q Right?

4 A I am one part of a greater group of detectives
5 that gathers evidence. I'm just one part of that unit.
6 You're the pointy end of the spear, aren't you?

7 MR. LALLY: Objection.

8 THE COURT: Sustained.

9 Q You're the case officer, the lead detective,
10 correct?

11 A Yes.

12 Q Sort of like the fox guarding the hen house, isn't
13 it?

14 MR. LALLY: Objection.

15 THE COURT: That's sustained, Mr. Jackson. Do you
16 have anything else?

17 MR. JACKSON: Nothing. Thank you.

18 (End of requested testimony.)
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, CHRISTINE D. BLANKENSHIP, NOTARY PUBLIC, DO HEREBY
CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER AS DIRECTED BY NANCY KING, CVR.

I, CHRISTINE D. BLANKENSHIP, FURTHER CERTIFY THAT I NEITHER
AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES
TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT
I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF
THIS ACTION.

Christine D. Blankenship, February 3, 2025

CHRISTINE D. BLANKENSHIP, CVR, NOTARY PUBLIC

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